



## Introduction

Congressional authorization for the Direct Loan Program is in the Higher Education Act of 1965, as amended. Regulations for the Direct Loan Program are in Part 685 of Title 34 of the *Code of Federal Regulations* (CFR). This appendix contains an unofficial version of 34 CFR 685, in its entirety, as of December 31, 1998. The U.S. Department of Education has made every effort to ensure the accuracy of the regulations contained in this unofficial version. However, the only official versions of these regulations are those published in the *Federal Register* and in the *Code of Federal Regulations*.

These regulations will change as new rules are published. You may locate the most recent regulations and *Federal Register* publications affecting these regulations at the following Internet site:  
<http://ifap.ed.gov>

**Note:** Sec. 685.209(a)(3) refers to poverty guidelines released by the U.S. Department of Health and Human Services (HHS). The 1999 poverty guidelines are described on page 68 of this appendix.

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**Subpart A: Purpose and Scope**

**Sec. 685.100—The William D. Ford Federal Direct Loan Program.**

(a) Under the William D. Ford Federal Direct Loan (Direct Loan) Program (formerly known as the Federal Direct Student Loan Program), the Secretary makes loans to enable a student or parent to pay the costs of the student’s attendance at a postsecondary school. This part governs the Federal Direct Stafford/Ford Loan Program, the Federal Direct Unsubsidized Stafford/Ford Loan Program, the Federal Direct PLUS Program, and the Federal Direct Consolidation Loan Program. The Secretary makes loans under the following program components:

- (1) Federal Direct Stafford/Ford Loan Program (formerly known as the Federal Direct Stafford Loan Program), which provides loans to undergraduate, graduate, and professional students. The Secretary subsidizes the interest while the borrower is in an in-school, grace, or deferment period.
- (2) Federal Direct Unsubsidized Stafford/Ford Loan Program (formerly known as the Federal Direct Unsubsidized Stafford Loan Program), which provides loans to undergraduate, graduate and professional students. The borrower is responsible for the interest that accrues during any period.

- (3) Federal Direct PLUS Program, which provides loans to parents of dependent students. The borrower is responsible for the interest that accrues during any period.
  - (4) Federal Direct Consolidation Loan Program, which provides loans to borrowers to consolidate certain Federal educational loans.
- (b) The Secretary makes a Direct Subsidized Loan, a Direct Unsubsidized Loan, or a Direct PLUS Loan only to a student or a parent of a student enrolled in a school that has been selected by the Secretary to participate in the Direct Loan Program.
- (c) The Secretary makes a Direct Consolidation Loan only to—
- (1) A borrower with a loan made under the Direct Loan Program; or
  - (2) A borrower with a loan made under the Federal Family Education Loan Program who is not able to receive—
    - (i) A Federal Consolidation Loan; or
    - (ii) A Federal Consolidation Loan with income-sensitive repayment terms that are satisfactory to the borrower.

(Authority: 20 U.S.C. 1087a et seq.)

### **Sec. 685.101—Participation in the Direct Loan Program.**

- (a) (1) Colleges, universities, graduate and professional schools, vocational schools, and proprietary schools selected by the Secretary may participate in the Direct Loan Program. Participation in the Direct Loan Program enables an eligible student

or parent to obtain a loan to pay for the student's cost of attendance at the school.

- (2) The Secretary may permit a school to participate in both the Federal Family Education Loan (FFEL) Program, as defined in 34 CFR Part 600, and the Direct Loan Program. A school permitted to participate in both the FFEL Program and the Direct Loan Program may certify loan applications under the FFEL Program according to the terms of its agreement with the Secretary.
- (b) An eligible student who is enrolled at a school participating in the Direct Loan Program may borrow under the Federal Direct Stafford/Ford Loan and Federal Direct Unsubsidized Stafford/Ford Loan Programs. An eligible parent of an eligible dependent student enrolled at a school participating in the Direct Loan Program may borrow under the Federal Direct PLUS Program.

(Authority: 20 U.S.C. 1087a et seq.)

### **Sec. 685.102—Definitions.**

- (a) (1) The definitions of the following terms used in this part are set forth in subpart A of the Student Assistance General Provisions, 34 CFR part 668:
- Academic year
  - Campus-based programs
  - Dependent student
  - Disburse
  - Eligible program
  - Eligible student

- Enrolled
- Federal Consolidation Loan Program
- Federal Direct Student Loan Program (Direct Loan Program)
- Federal Pell Grant Program
- Federal Perkins Loan Program
- Federal PLUS Program
- Federal State Student Incentive Grant Program
- Federal Supplemental Educational Opportunity Grant Program
- Federal Work-Study Program
- Independent student
- One-third of an academic year
- Payment period
- Parent
- State
- Two-thirds of an academic year
- U.S. citizen or national

(2) The following definitions are set forth in the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR Part 600

- Accredited
- Clock hour
- Educational program
- Eligible institution

- Federal Family Education Loan (FFEL) Program
- Institution of higher education
- Nationally recognized accrediting agency or association
- Preaccredited
- Program of study by correspondence
- Secretary

(3) The following definitions are set forth in the regulations for the Federal Family Education Loan (FFEL) Program, 34 CFR Part 682:

- Act
- Endorser
- Expected family contribution
- Federal Insured Student Loan (FISL) Program
- Federal Stafford Loan Program
- Foreign school
- Full-time student
- Graduate or professional student
- Guaranty agency
- Holder
- Legal guardian
- Lender
- Totally and permanently disabled
- Undergraduate student

(b) The following definitions also apply to this part:

- *Alternative originator*: An entity under contract with the Secretary that originates Direct Loans to students and parents of students who attend a Direct Loan Program school that does not originate loans.
- *Consortium*: For purposes of this part, a consortium is a group of two or more schools that interacts with the Secretary in the same manner as other schools, except that the electronic communication between the Secretary and the schools is channeled through a single point. Each school in a consortium shall sign a Direct Loan Program participation agreement with the Secretary and be responsible for the information it supplies through the consortium.
- *Default*: The failure of a borrower and endorser, if any, to make an installment payment when due, or to meet other terms of the promissory note, if the Secretary finds it reasonable to conclude that the borrower and endorser, if any, no longer intend to honor the obligation to repay, provided that this failure persists for 180 days.
- *Estimated financial assistance*:
  - (1) The estimated amount of assistance for a period of enrollment that a student (or a parent on behalf of a student) will receive from Federal, State, institutional, or other sources, such as scholarships, grants, financial need-based employment, or loans, including but not limited to—
    - (i) Veterans' educational benefits paid under chapters 30, 31, 32, and 35 of title 38 of the United States Code;
    - (ii) Educational benefits paid under chapters 106 and 107 of title 10 of the United States Code (Selected Reserve Educational Assistance Program);
    - (iii) Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under chapter 2 of title 10 and chapter 2 of title 37 of the United States Code;
    - (iv) Benefits paid under Public Law 97-376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits);
    - (v) Benefits paid under Public Law 96-342, section 903: Educational Assistance Pilot Program;
    - (vi) Any educational benefits paid because of enrollment in a postsecondary education institution;
    - (vii) The estimated amount of other Federal student financial aid, including but not limited to a Federal Pell Grant, campus-based aid, and the gross amount (including fees) of a Direct Subsidized, Direct

<p style="text-align: center;">Unsubsidized, and Direct PLUS Loan.</p> <p>(2) Estimated financial assistance does not include—</p> <p>(i) Those amounts used to replace the expected family contribution, including—</p> <p style="padding-left: 40px;">(A) Direct PLUS Loan amounts;</p> <p style="padding-left: 40px;">(B) Direct Unsubsidized Loan amounts; and</p> <p style="padding-left: 40px;">(C) Non-Federal loan amounts; and</p> <p>(ii) Federal Perkins loan and Federal Work-Study funds that the student has declined.</p> <ul style="list-style-type: none"> <li>• <i>Federal Direct Consolidation Loan Program:</i> A loan program authorized by title IV, part D of the Act that provides loans to borrowers who consolidate certain Federal educational loan(s), and one of the components of the Direct Loan Program. Loans made under this program are referred to as Direct Consolidation Loans. There are three types of Direct Consolidation Loans:             <ol style="list-style-type: none"> <li>(1) Direct Subsidized Consolidation Loans. Subsidized title IV education loans may be consolidated into a Direct Subsidized Consolidation Loan. Interest is not charged to the borrower during in-school, grace, and deferment periods.</li> <li>(2) Direct Unsubsidized Consolidation Loans. Certain Federal education loans may be consolidated into a Direct Unsubsidized Consolidation Loan. The borrower is responsible</li> </ol> </li> </ul>	<p>for the interest that accrues during any period.</p> <p>(3) Direct PLUS Consolidation Loans. Parent Loans for Undergraduate Students, Federal PLUS, Direct PLUS, and Direct PLUS Consolidation Loans may be consolidated into a Direct PLUS Consolidation Loan. The borrower is responsible for the interest that accrues during any period.</p> <ul style="list-style-type: none"> <li>• <i>Federal Direct PLUS Program:</i> A loan program authorized by title IV, part D of the Act that provides loans to parents of dependent students attending schools that participate in the Direct Loan Program, and one of the components of the Direct Loan Program. The borrower is responsible for the interest that accrues during any period. Loans made under this program are referred to as Direct PLUS Loans.</li> <li>• <i>Federal Direct Stafford/Ford Loan Program:</i> A loan program authorized by title IV, part D of the Act that provides loans to undergraduate, graduate, and professional students attending Direct Loan Program schools, and one of the components of the Direct Loan Program. The Secretary subsidizes the interest while the borrower is in an in-school, grace, or deferment period. Loans made under this program are referred to as Direct Subsidized Loans.</li> <li>• <i>Federal Direct Unsubsidized Stafford/Ford Loan Program:</i> A loan program authorized by title IV, part D of the Act that provides loans to</li> </ul>
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- undergraduate, graduate, and professional students attending Direct Loan Program schools, and one of the components of the Direct Loan Program. The borrower is responsible for the interest that accrues during any period. Loans made under this program are referred to as Direct Unsubsidized Loans.
- *Grace period:* A six-month period that begins on the day after a Direct Loan Program borrower ceases to be enrolled as at least a half-time student at an eligible institution and ends on the day before the repayment period begins.
  - *Half-time student:* A student who is not a full-time student and who is enrolled in a school participating in the FFEL Program or the Direct Loan Program and is carrying an academic workload that is at least one-half the workload of a full-time student, as determined by the school. A student enrolled solely in an eligible program of study by correspondence is considered a half-time student.
  - *Interest rate:* The annual interest rate that is charged on a loan, under title IV, part D of the Act.
  - *Loan fee:* A fee, payable by the borrower, that is used to help defray the costs of the Direct Loan Program.
  - *Period of enrollment:* The period for which a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan is intended. The period of enrollment must coincide with one or more academic terms established by the school (such as semester, trimester, quarter, academic year, and length of the program of study), for which institutional charges are generally assessed. The period of enrollment is also referred to in this part as the loan period.
- *Satisfactory repayment arrangement.*
    - (1) For the purpose of regaining eligibility under section 428F(b) of the HEA, the making of six consecutive, voluntary, on-time, full monthly payments on a defaulted loan. A borrower may only obtain the benefit of this paragraph with respect to renewed eligibility once.
    - (2) For the purpose of consolidating a defaulted loan under 34 CFR 685.215(d)(1) (ii)(E), the making of three consecutive, voluntary, on-time, full monthly payments on a defaulted loan.
    - (3) The required monthly payment amount may not be more than is reasonable and affordable based on the borrower's total financial circumstances. "On-time" means a payment made within 15 days of the scheduled due date, and voluntary payments are those payments made directly by the borrower, regardless of whether there is a judgment against the borrower, and do not include payments obtained by income tax offset, garnishment, or income or asset execution.
  - *School origination option 1:* In general, under this option the school performs the following functions: creates a loan

origination record, transmits the record to the Servicer, prepares the promissory note, obtains a completed and signed promissory note from a borrower, transmits the promissory note to the Servicer, receives the funds electronically, disburses a loan to a borrower, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Servicer initiates the drawdown of funds for schools participating in school origination option 1. The Secretary may modify the functions performed by a particular school.

- *School origination option 2:* In general, under this option the school performs the following functions: creates a loan origination record, transmits the record to the Servicer, prepares the promissory note, obtains a completed and signed promissory note from a borrower, transmits the promissory note to the Servicer, determines funding needs, initiates the drawdown of funds, receives the funds electronically, disburses a loan to a borrower, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Secretary may modify the functions performed by a particular school.
- *Servicer:* An entity that has contracted with the Secretary to act as the Secretary’s agent in providing services relating to the origination or servicing of Direct Loans.
- *Standard origination:* In general, under this option the school performs the

following functions: creates a loan origination record, transmits the record to the Servicer, receives funds electronically, disburses funds, creates a disbursement record, transmits the disbursement record to the Servicer, and reconciles on a monthly basis. The Servicer prepares the promissory note, obtains a completed and signed promissory note from a borrower, and initiates the drawdown of funds for schools participating in standard origination. The Secretary may modify the functions performed by a particular school.

**(Authority: 20 U.S.C. 1087a et seq.)**

**Note:** “School origination option 1,” “School origination option 2,” and “Standard origination” definitions amended December 1, 1995, effective July 1, 1996. (a)(3) and (b) revised June 12, 1996, effective July 12, 1996. (a)(1) introductory clause amended and “Payment period” added to (a)(1) November 29, 1996, effective July 1, 1997.

### **Sec. 685.103—Applicability of subparts.**

- (a) Subpart A contains general provisions regarding the purpose and scope of the Direct Loan Program.
- (b) Subpart B contains provisions regarding borrowers in the Direct Loan Program.
- (c) Subpart C contains certain requirements regarding schools in the Direct Loan Program.

- (d) Subpart D contains provisions regarding school eligibility for participation and origination in the Direct Loan Program.

(Authority: 20 U.S.C. 1087a et seq.)

## **Subpart B: Borrower Provisions**

### **Sec. 685.200—Borrower eligibility.**

(a) *Student borrower.*

- (1) A student is eligible to receive a Direct Subsidized Loan, a Direct Unsubsidized Loan, or a combination of these loans, if the student meets the following requirements:
- (i) The student is enrolled, or accepted for enrollment, on at least a half-time basis in a school that participates in the Direct Loan Program.
  - (ii) The student meets the requirements for an eligible student under 34 CFR Part 668.
  - (iii) In the case of an undergraduate student who seeks a Direct Subsidized Loan or a Direct Unsubsidized Loan at a school that participates in the Federal Pell Grant Program, the student has received a determination of Federal Pell Grant eligibility for the period of enrollment for which the loan is sought.
  - (iv) In the case of a borrower whose previous loan was cancelled due to total and permanent disability, the student—

(A) Obtains a certification from a physician that the borrower is able to engage in substantial gainful activity; and

(B) Signs a statement acknowledging that the Direct Loan the borrower receives cannot be cancelled in the future on the basis of any impairment present when the new loan is made, unless that impairment substantially deteriorates.

(v) In the case of any student who seeks a loan but does not have a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, the student meets the requirements under 34 CFR 668.7(b).

(2) (i) A Direct Subsidized Loan borrower must demonstrate financial need in accordance with title IV, part F of the Act.

(ii) The Secretary considers a member of a religious order, group, community, society, agency, or other organization who is pursuing a course of study at an institution of higher education to have no financial need if that organization—

(A) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(B) Requires its members to forego monetary or other

support substantially beyond the support it provides; and

- (C) (1) Directs the member to pursue the course of study; or
- (2) Provides subsistence support to its members.

(b) *Parent borrower.*

- (1) A parent is eligible to receive a Direct PLUS Loan if the parent meets the following requirements:
  - (i) The parent is borrowing to pay for the educational costs of a dependent undergraduate student who meets the requirements for an eligible student under 34 CFR Part 668.
  - (ii) The parent provides his or her and the student's social security number.
  - (iii) The parent meets the requirements pertaining to citizenship and residency that apply to the student under 34 CFR 668.7.
  - (iv) The parent meets the requirements concerning defaults and overpayments that apply to the student in 34 CFR 668.7.
  - (v) The parent complies with the requirements for submission of a Statement of Educational Purpose that apply to the student under 34 CFR Part 668, except for the completion of a Statement of Selective Service Registration Status.

(vi) The parent meets the requirements that apply to a student under paragraph (a)(1)(iv) of this section.

(vii) (A) The parent—

- (1) Does not have an adverse credit history;
- (2) Has an adverse credit history but has obtained an endorser who does not have an adverse credit history; or
- (3) Has an adverse credit history but documents to the satisfaction of the Secretary that extenuating circumstances exist.

(B) For purposes of paragraph (b)(1)(vii)(A) of this section, an adverse credit history means that as of the date of the credit report, the applicant—

- (1) Is 90 or more days delinquent on any debt; or
- (2) Has been the subject of a default determination, bankruptcy discharge, foreclosure, repossession, tax lien, wage garnishment, or write-off of a debt under title IV of the Act during the five years preceding the date of the credit report.

(C) For the purposes of (b)(1)(vii)(A) of this section, the Secretary does not consider the absence of a credit history as an adverse credit history and does not deny a Direct PLUS loan on that basis.

(2) For purposes of paragraph (b)(1) of this section, a “parent” includes the individuals described in the definition of “parent” in 34 CFR 668.2 and the spouse of a parent who remarried, if that spouse’s income and assets would have been taken into account when calculating a dependent student’s expected family contribution.

(c) *Defaulted FFEL Program and Direct Loan borrowers.* Except as noted in Sec. 685.215(d)(1)(ii)(F), in the case of a student or parent borrower who is currently in default on an FFEL Program or a Direct Loan Program Loan, the borrower shall make satisfactory repayment arrangements, as described in paragraph (2) of the definition of that term under Sec. 685.102(b), on the defaulted loan.

(d) *Use of loan proceeds to replace expected family contribution.* The amount of a Direct Unsubsidized Loan, a Direct PLUS Loan, a State-sponsored loan, or another non-Federal loan obtained for a loan period may be used to replace the expected family contribution for that loan period.

**(Authority: 20 U.S.C. 1087a et seq.)**

**Note:** (b)(1) redesignated and (b)(2) added December 1, 1995, effective July 1, 1996. (a)(1)(i) and (c) revised June 12, 1996, effective July 12, 1996.

**Sec. 685.201—Obtaining a loan.**

(a) *Application for a Direct Subsidized Loan or a Direct Unsubsidized Loan.*

(1) To obtain a Direct Subsidized Loan or a Direct Unsubsidized Loan, a student shall complete a Free Application for Federal Student Aid and submit it in accordance with instructions in the application.

(2) If the student is eligible for a Direct Subsidized Loan or a Direct Unsubsidized Loan, the Secretary or the school in which the student is enrolled shall perform specific functions. Unless a school’s agreement with the Secretary specifies otherwise, the school shall perform the following functions:

(i) A school participating under school origination option 2 shall create a loan origination record, obtain a completed promissory note from the student, draw down funds, and disburse the funds.

(ii) A school participating under school origination option 1 shall create a loan origination record, obtain a completed promissory note from the student, and transmit the record and promissory note to the Servicer. The Servicer initiates the drawdown of funds, and the school disburses the funds.

(iii) If the student is attending a school participating under standard origination, the school shall create a loan origination record and transmit the record to the

alternative originator, which prepares the promissory note and sends it to the student and receives the completed promissory note from the student. The Servicer initiates the drawdown of funds, and the school disburses the funds.

(b) *Application for a Direct PLUS Loan.* To obtain a Direct PLUS Loan, the parent shall complete the application and promissory note and submit it to the school at which the student is enrolled. The school shall complete its portion of the application and promissory note and submit it to the Servicer, which makes a determination as to whether the parent has an adverse credit history. Unless a school's agreement with the Secretary specifies otherwise, the school shall perform the following functions: A school participating under school origination option 2 shall draw down funds and disburse the funds. For a school participating under school origination option 1 or standard origination, the Servicer initiates the drawdown of funds, and the school disburses the funds.

(c) *Application for a Direct Consolidation Loan.*

(1) To obtain a Direct Consolidation Loan, the applicant shall complete the application and promissory note and submit it to the Servicer. The application and promissory note set forth the terms and conditions of the Direct Consolidation Loan and inform the applicant how to contact the Servicer. The Servicer answers questions regarding the process of applying for a Direct Consolidation Loan and provides information about the terms and conditions of both

Direct Consolidation Loans and the types of loans that may be consolidated.

(2) Once the applicant has submitted the completed application and promissory note to the Servicer, the Secretary makes the Direct Consolidation Loan under the procedures specified in Sec. 685.215.

**(Authority: 20 U.S.C. 1087a et seq., 1091a)**

**Note:** (a)(2) introductory text and (b) amended December 1, 1995, effective July 1, 1996.

**Sec. 685.202—Charges for which Direct Loan Program borrowers are responsible.**

(a) *Interest.*

(1) *Interest rate for Direct Subsidized Loans and Direct Unsubsidized Loans.*

(i) *Loans first disbursed prior to July 1, 1995.* For Direct Subsidized Loans and Direct Unsubsidized Loans during all periods, the interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 8.25 percent.

(ii) *Loans first disbursed on or after July 1, 1995.*

- (A) During the in-school, grace, and deferment periods. The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 2.5 percentage points, but does not exceed 8.25 percent.
- (B) During all other periods. The interest rate during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 immediately preceding that period. The interest rate is equal to the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 8.25 percent.
- (2) *Interest rate for the Direct PLUS Loans.* The interest rate on a Direct PLUS Loan during any twelve-month period beginning on July 1 and ending on June 30 is determined on the June 1 preceding that period. The interest rate is equal to the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to that June 1 plus 3.1 percentage points, but does not exceed 9 percent.
- (b) *Capitalization.*
- (1) The Secretary may add unpaid accrued interest to the borrower's unpaid principal balance. This increase in the principal balance of a loan is called "capitalization."
  - (2) For a Direct Unsubsidized Loan or a Direct Unsubsidized Consolidation Loan that qualifies for a grace period, the Secretary capitalizes the unpaid interest that accrues on the loan when the borrower enters repayment.
  - (3) Notwithstanding Sec. 685.208(g)(5) and Sec. 685.209(d)(3), for a Direct Loan not eligible for interest subsidies during periods of deferment, and for all Direct Loans during periods of forbearance, the Secretary capitalizes the unpaid interest that has accrued on the loan upon the expiration of the deferment or forbearance.
  - (4) Except as provided in paragraph (b)(3) of this section and in Sec. 685.208(g)(5), and Sec. 685.209(d)(3), the Secretary annually capitalizes unpaid interest when the borrower is paying under the alternative or income contingent repayment plans and the borrower's scheduled payments do not cover the interest that has accrued on the loan.
  - (5) The Secretary may capitalize unpaid interest when the borrower defaults on the loan.

- (c) *Loan fee for Direct Subsidized, Direct Unsubsidized, and Direct PLUS Loans.* The Secretary—
- (1) Charges a borrower a loan fee of four percent of the principal amount of the loan on a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan;
  - (2) Deducts the loan fee from the proceeds of the loan;
  - (3) In the case of a loan disbursed in multiple installments, deducts a pro rated portion of the fee from each disbursement; and
  - (4) Applies to a borrower's loan balance the portion of the loan fee previously deducted from the loan that is attributable to any portion of the loan that is—
    - (i) Repaid or returned within 120 days of disbursement, unless—
      - (A) The borrower has no Direct Loans in repayment status and has requested, in writing, that the repaid or returned funds be used for a different purpose; or
      - (B) The borrower has a Direct Loan in repayment status, in which case the payment is applied in accordance with Sec. 685.211(a) unless the borrower has requested, in writing, that the repaid or returned funds be applied as a cancellation of all or part of the loan; or
    - (ii) Returned by a school in order to comply with the Act or with applicable regulations.

- (d) *Late charge.*
- (1) The Secretary may require the borrower to pay a late charge of up to six cents for each dollar of each installment or portion thereof that is late under the circumstances described in paragraph (d)(2) of this section.
  - (2) The late charge may be assessed if the borrower fails to pay all or a portion of a required installment payment within 30 days after it is due.
- (e) (1) *Collection charges before default.* Notwithstanding any provision of State law, the Secretary may require that the borrower or any endorser pay costs incurred by the Secretary or the Secretary's agents in collecting installments not paid when due. These charges do not include routine collection costs associated with preparing letters or notices or with making personal contacts with the borrower (e.g., local and long-distance telephone calls).
- (2) *Collection charges after default.* If a borrower defaults on a Direct Loan, the Secretary assesses collection costs on the basis of 34 CFR 30.60.

**(Authority: 20 U.S.C. 1087a et seq., 1091a)**

Note: (a)(1) and (b) revised June 12, 1996, effective July 12, 1996. (c)(4) revised November 28, 1997, effective July 1, 1998.

**Sec. 685.203—Loan limits.***(a) Direct Subsidized Loans.*

- (1) In the case of an undergraduate student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:
  - (i) \$2,625 for a program of study of at least a full academic year in length.
  - (ii) \$1,750 for a program of study of at least two-thirds but less than a full academic year in length.
  - (iii) \$875 for a program of study of at least one-third but less than two-thirds of an academic year in length.
- (2) In the case of an undergraduate student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:
  - (i) \$3,500 for a program of study of at least a full academic year in length.
  - (ii) If the student is enrolled in a program of study with less than a full academic year remaining, an amount that bears the same ratio to \$3,500 as the number of semester, trimester, quarter, or clock hours for which the student enrolls bears to one academic year.
- (3) In the case of an undergraduate student who has successfully completed the first and second years of a program of study of undergraduate education but has not successfully completed the remainder of the program, or in the case of a student in a program who has an associate or baccalaureate degree which is required for admission into the program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the Federal Stafford Loan Program may not exceed the following:
  - (i) \$5,500 for a program of study of at least an academic year in length.
  - (ii) For a student enrolled in a program of study with less than a full academic year remaining, an amount that bears the same ratio to \$5,500 as the number of semester, trimester, quarter, or clock hours for which the student enrolls bears to one academic year.
- (4) In the case of a graduate or professional student, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford/Ford Loan Program in combination with the

Federal Stafford Loan Program may not exceed \$8,500.

(b) *Direct Unsubsidized Loans.* The total amount a student may borrow under any period of study for the Federal Direct Unsubsidized Loan Program and the Federal Unsubsidized Stafford/Ford Loan Program is the same as the amount determined under paragraph (a) of this section, less any amount received under the Federal Direct Stafford/Ford Loan Program or the Federal Stafford Loan Program.

(c) *Additional eligibility for Direct Unsubsidized Loans.*

(1) (i) An independent undergraduate student, graduate or professional student, and certain dependent undergraduate students may borrow amounts under the Federal Direct Unsubsidized Loan Program in addition to any amount borrowed under paragraph (b) of this section.

(ii) In order for a dependent undergraduate student to receive this additional loan amount, the financial aid administrator must determine that the student's parent likely will be precluded by exceptional circumstances from borrowing under the Federal Direct PLUS Program or the Federal PLUS Program and the student's family is otherwise unable to provide the student's expected family contribution. The financial aid administrator shall base the determination on a review of the family financial information provided by the student and consideration of the student's debt

burden and shall document the determination in the school's file.

(iii) "Exceptional circumstances" under paragraph (c)(1)(ii) of this section include but are not limited to circumstances in which the student's parent receives only public assistance or disability benefits, the parent is incarcerated, the parent has an adverse credit history, or the parent's whereabouts are unknown. A parent's refusal to borrow a Federal PLUS Loan or Direct PLUS Loan does not constitute "exceptional circumstances."

(2) The additional amount that a student described in paragraph (c)(1)(i) of this section may borrow under the Federal Direct Unsubsidized Stafford/Ford Loan Program and the Federal Unsubsidized Stafford Loan Program for any academic year of study may not exceed the following:

(i) In the case of a student who has not successfully completed the first and second year of a program of undergraduate education—

(A) \$4,000 for enrollment in a program of study of at least a full academic year in length;

(B) \$2,500 for enrollment in a program of study of at least two-thirds but less than a full academic year in length; and

- (C) \$1,500 for enrollment in a program of study of at least one-third but less than two-thirds of an academic year in length.
- (ii) In the case of a student who has successfully completed the first and second year of an undergraduate program but has not completed the remainder of the program of study—
- (A) For a student enrolled in a program of study of at least a full academic year, \$5,000; and
- (B) For a student enrolled in a program of study with less than a full academic year remaining, an amount that bears the same ratio to \$5,000 as the number of semester, trimester, quarter, or clock hours for which the student enrolls bears to one academic year.
- (iii) In the case of a graduate or professional student, \$10,000.
- (d) *Federal Direct Stafford/Ford Loan Program and Federal Stafford Loan Program aggregate limits.* The aggregate unpaid principal amount of all Direct Subsidized Loans and Federal Stafford Loans made to a student may not exceed the following:
- (1) \$23,000 in the case of any student who has not successfully completed a program of study at the undergraduate level.
  - (2) \$65,500 in the case of a graduate or professional student, including loans for undergraduate study.
- (e) *Aggregate limits for unsubsidized loans.* The total amount of Direct Unsubsidized Loans, Federal Unsubsidized Stafford Loans, and Federal SLS Loans may not exceed the following:
- (1) For a dependent undergraduate student, \$23,000 minus any Direct Subsidized Loan and Federal Stafford Loan amounts, unless the student qualifies under paragraph (c) of this section for additional eligibility or qualified for that additional eligibility under the Federal SLS Program.
  - (2) For an independent undergraduate or a dependent undergraduate who qualifies for additional eligibility under paragraph (c) of this section or qualified for this additional eligibility under the Federal SLS Program, \$46,000 minus any Direct Subsidized Loan and Federal Stafford Loan amounts.
  - (3) For a graduate or professional student, \$138,500 including any loans for undergraduate study, minus any Direct Subsidized Loan, Federal Stafford Loan, and Federal SLS Program loan amounts.
- (f) *Direct PLUS Loans annual limit.* The total amount of all Direct PLUS Loans that a parent or parents may borrow on behalf of each dependent student for any academic year of study may not exceed the cost of attendance minus other estimated financial assistance for that student.
- (g) *Direct PLUS Loans aggregate limit.* The total amount of all Direct PLUS Loans that a parent or parents may borrow on behalf of each dependent student for enrollment

in an eligible program of study may not exceed the student's cost of attendance minus other estimated financial assistance for that student for the entire period of enrollment.

- (h) *Loan limit period.* The annual loan limits apply to an academic year.
- (i) *Treatment of Direct Consolidation Loans and Federal Consolidation Loans.* The percentage of the outstanding balance on Direct Consolidation Loans or Federal Consolidation Loans counted against a borrower's aggregate loan limits is calculated as follows:
  - (1) For Direct Subsidized Loans, the percentage equals the percentage of the original amount of the Direct Consolidation Loan or Federal Consolidation Loan attributable to the Direct Subsidized and Federal Stafford Loans.
  - (2) For Direct Unsubsidized Loans, the percentage equals the percentage of the original amount of the Direct Consolidation Loan or Federal Consolidation Loan attributable to the Direct Unsubsidized, Federal SLS, and Federal Unsubsidized Stafford Loans.
- (j) *Maximum loan amounts.* In no case may a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan amount exceed the student's estimated cost of attendance for the period of enrollment for which the loan is intended, less—
  - (1) The student's estimated financial assistance for that period; and

- (2) In the case of a Direct Subsidized Loan, the borrower's expected family contribution for that period.

**(Authority: 20 U.S.C. 1087a et seq.)**

**Sec. 685.204—Deferment.**

- (a) (1) A Direct Loan borrower whose loan is eligible for interest subsidies and who meets the requirements described in paragraph (b) of this section is eligible for a deferment during which periodic installments of principal and interest need not be paid.
- (2) A Direct Loan borrower whose loan is not eligible for interest subsidies and who meets the requirements described in paragraph (b) of this section is eligible for a deferment during which periodic installments of principal need not be paid but interest does accrue and is capitalized or paid by the borrower.
- (b) Except as provided in paragraphs (d) and (e) of this section, a Direct Loan borrower is eligible for a deferment during any period during which the borrower meets any of the following requirements:
  - (1) (i) The borrower—
    - (A) Is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible school the borrower is attending;
    - (B) Is pursuing a course of study pursuant to a graduate

- fellowship program approved by the Secretary; or
- (C) Is pursuing a rehabilitation training program, approved by the Secretary, for individuals with disabilities; and
- (ii) The borrower is not serving in a medical internship or residency program, except for a residency program in dentistry.
- (2) (i) The borrower is seeking and unable to find full-time employment.
- (ii) For purposes of paragraph (b)(2)(i) of this section, the Secretary determines whether a borrower is eligible for a deferment due to the inability to find full-time employment using the standards and procedures set forth in 34 CFR 682.210(h) with references to the lender understood to mean the Secretary.
- (3) (i) The borrower has experienced or will experience an economic hardship.
- (ii) For purposes of paragraph (b)(3)(i) of this section, the Secretary determines whether a borrower is eligible for a deferment due to an economic hardship using the standards and procedures set forth in 34 CFR 682.210(s)(6) with references to the lender understood to mean the Secretary.
- (c) No deferment under paragraphs (b) (2) or (3) of this section may exceed three years.
- (d) If, at the time of application for a borrower's first Direct Loan, a borrower has an outstanding balance of principal or interest owing on any FFEL Program loan that was made, insured, or guaranteed prior to July 1, 1993, the borrower is eligible for a deferment during—
- (1) the periods described in paragraph (b) of this section; and
- (2) the periods described in 34 CFR 682.210(b), including those periods that apply to a “new borrower” as that term is defined in 34 CFR 682.210(b)(7).
- (e) A borrower whose loan is in default is not eligible for a deferment, unless the borrower has made payment arrangements satisfactory to the Secretary.
- (Authority: 20 U.S.C. 1087a et seq.)**
- (Approved by the Office of Management and Budget under control number 1840-0672)
- Note:** OMB control number added June 28, 1995, effective July 1, 1995.
- Note:** (b) and (d) revised and (e) added June 12, 1996, effective July 12, 1996.
- Sec. 685.205—Forbearance.**
- (a) *General.* “Forbearance” means permitting the temporary cessation of payments, allowing an extension of time for making payments, or temporarily accepting smaller payments than previously scheduled. The borrower has the option to choose the form of forbearance. If payments of interest are forborne, they are capitalized. The Secretary grants

forbearance if the borrower or endorser intends to repay the loan but requests forbearance and provides sufficient documentation to support this request, and—

- (1) The Secretary determines that, due to poor health or other acceptable reasons, the borrower or endorser is currently unable to make scheduled payments;
- (2) The borrower's payments of principal are deferred under Sec. 685.204 and the Secretary does not subsidize the interest benefits on behalf of the borrower.
- (3) The borrower is in a medical or dental internship or residency that must be successfully completed before the borrower may begin professional practice or service, or the borrower is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;
- (4) The borrower is serving in a national service position for which the borrower is receiving a national service educational award under the National and Community Service Trust Act of 1993;
- (5) The borrower is eligible for loan forgiveness under the Federal Stafford Loan Forgiveness Demonstration Program, if the program is funded, for performing the type of service described in Sec. 682.215(b); or

(6) For not more than three years during which the borrower or endorser—

- (i) Is currently obligated to make payments on loans under title IV of the Act; and
  - (ii) The sum of these payments each month (or a proportional share if the payments are due less frequently than monthly) is equal to or greater than 20 percent of the borrower's or endorser's total monthly gross income.
- (b) *Administrative forbearance.* In certain circumstances, the Secretary grants forbearance without requiring documentation from the borrower. These circumstances include but are not limited to—
- (1) A properly granted period of deferment for which the Secretary learns the borrower did not qualify;
  - (2) The period for which payments are overdue at the beginning of an authorized deferment period;
  - (3) The period beginning when the borrower entered repayment until the first payment due date was established;
  - (4) The period prior to a borrower's filing of a bankruptcy petition;
  - (5) A period after the Secretary receives reliable information indicating that the borrower (or the student in the case of a Direct PLUS Loan) has died, or the borrower has become totally and permanently disabled, until the Secretary receives

- documentation of death or total and permanent disability;
- (6) Periods necessary for the Secretary to determine the borrower's eligibility for discharge—
- (i) Under Sec. 685.213;
  - (ii) Under Sec. 685.214; or
  - (iii) Due to the borrower's or endorser's (if applicable) bankruptcy;
- (7) A period of up to three years in cases where the effect of a variable interest rate on a fixed-amount or graduated repayment schedule causes the extension of the maximum repayment term; or
- (8) A period during which the Secretary has authorized forbearance due to a national military mobilization or other local or national emergency.
- (c) *Period of forbearance.*
- (1) The Secretary grants forbearance for a period of up to one year.
  - (2) The forbearance is renewable, upon request of the borrower, for the duration of the period in which the borrower meets the condition required for the forbearance.

**(Authority: 20 U.S.C. 1087a et seq.)**

**Note:** (a)(4) revised June 12, 1996, effective July 12, 1996.

### **Sec. 685.206—Borrower responsibilities and defenses.**

- (a) The borrower shall give the school the following information as part of the origination process for a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan:
- (1) A statement, as described in 34 CFR Part 668, that the loan will be used for the cost of the student's attendance.
  - (2) Information demonstrating that the borrower is eligible for the loan.
  - (3) Information concerning the outstanding FFEL Program and Direct Loan Program loans of the borrower and, for a parent borrower, of the student, including any Federal Consolidation Loan or Direct Consolidation Loan.
  - (4) A statement authorizing the school to release to the Secretary information relevant to the student's eligibility to borrow or to have a parent borrow on the student's behalf (e.g., the student's enrollment status, financial assistance, and employment records).
- (b) (1) The borrower shall promptly notify the Secretary of any change of name, address, student status to less than half-time, employer, or employer's address; and
- (2) The borrower shall promptly notify the school of any change in address during enrollment.
- (c) *Borrower defenses.*
- (1) In any proceeding to collect on a Direct Loan, the borrower may assert as a defense against repayment, any

act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law. These proceedings include, but are not limited to, the following:

- (i) Tax refund offset proceedings under 34 CFR 30.33.
  - (ii) Wage garnishment proceedings under section 488A of the Act.
  - (iii) Salary offset proceedings for Federal employees under 34 CFR Part 31.
  - (iv) Credit bureau reporting proceedings under 31 U.S.C. 3711(f).
- (2) If the borrower’s defense against repayment is successful, the Secretary notifies the borrower that the borrower is relieved of the obligation to repay all or part of the loan and associated costs and fees that the borrower would otherwise be obligated to pay. The Secretary affords the borrower such further relief as the Secretary determines is appropriate under the circumstances. Further relief may include, but is not limited to, the following:
- (i) Reimbursing the borrower for amounts paid toward the loan voluntarily or through enforced collection.
  - (ii) Determining that the borrower is not in default on the loan and is eligible to receive assistance under title IV of the Act.

- (iii) Updating reports to credit bureaus to which the Secretary previously made adverse credit reports with regard to the borrower’s Direct Loan.

- (3) The Secretary may initiate an appropriate proceeding to require the school whose act or omission resulted in the borrower’s successful defense against repayment of a Direct Loan to pay to the Secretary the amount of the loan to which the defense applies. However, the Secretary does not initiate such a proceeding after the period for the retention of records described in Sec. 685.309(c) unless the school received actual notice of the claim during that period.

**(Authority: 20 U.S.C. 1087a et seq.)**

(Approved by the Office of Management and Budget under control number 1840-0672)

**Note:** OMB control number added June 28, 1995, effective July 1, 1995.

**Sec. 685.207—Obligation to repay.**

- (a) *Obligation of repayment in general.*
  - (1) A borrower is obligated to repay the full amount of a Direct Loan, including the principal balance, fees, any collection costs charged under Sec. 685.202(e), and any interest not subsidized by the Secretary, unless the borrower is relieved of the obligation to repay as provided in this part.

- (2) The borrower's repayment of a Direct Loan may also be subject to the deferment provisions in Sec. 685.204, the forbearance provisions in Sec. 685.205, and the discharge provisions in Sec. 685.212.

(b) *Direct Subsidized Loan repayment.*

- (1) During the period in which a borrower is enrolled at an eligible school on at least a half-time basis, the borrower is in an "in-school" period and is not required to make payments on a Direct Subsidized Loan unless—
- (i) The loan entered repayment before the in-school period began; and
  - (ii) The borrower has not been granted a deferment under Sec. 685.204.
- (2) (i) When a borrower ceases to be enrolled at an eligible school on at least a half-time basis, a six-month grace period begins, unless the grace period has been previously exhausted.
- (ii) During a grace period, the borrower is not required to make payments on a Direct Subsidized Loan.
- (3) A borrower is not obligated to pay interest on a Direct Subsidized Loan for in-school or grace periods unless the borrower is required to make payments on the loan during those periods under paragraph (b)(1) of this section.
- (4) The repayment period for a Direct Subsidized Loan begins the day after the grace period ends. A borrower is

obligated to repay the loan under paragraph (a) of this section during the repayment period.

(c) *Direct Unsubsidized Loan repayment.*

- (1) During the period in which a borrower is enrolled at an eligible school on at least a half-time basis, the borrower is in an "in-school" period and is not required to make payments of principal on a Direct Unsubsidized Loan unless—
- (i) The loan entered repayment before the in-school period began; and
  - (ii) The borrower has not been granted a deferment under Sec. 685.204.
- (2) (i) When a borrower ceases to be enrolled at an eligible school on at least a half-time basis, a six-month grace period begins, unless the grace period has been previously exhausted.
- (ii) During a grace period, the borrower is not required to make any principal payments on a Direct Unsubsidized Loan.
- (3) A borrower is responsible for the interest that accrues on a Direct Unsubsidized Loan during in-school and grace periods. Interest begins to accrue on the day the first installment is disbursed. Interest that accrues may be capitalized or paid by the borrower.
- (4) The repayment period for a Direct Unsubsidized Loan begins the day after the grace period ends. A borrower is obligated to repay the loan

under paragraph (a) of this section during the repayment period.

(d) *Direct PLUS Loan repayment.* The repayment period for a Direct PLUS Loan begins on the day the loan is fully disbursed. Interest begins to accrue on the day the first installment is disbursed. A borrower is obligated to repay the loan under paragraph (a) of this section during the repayment period.

(e) *Direct Consolidation Loan repayment.*

(1) Except as provided in paragraphs (e)(2) and (e)(3) of this section, the repayment period for a Direct Consolidation Loan begins and interest begins to accrue on the day the loan is made. The borrower is obligated to repay the loan under paragraph (a) of this section during the repayment period.

(2) A borrower who obtains a Direct Subsidized Consolidation Loan during an in-school period will be subject to the repayment provisions in paragraph (b) of this section.

(3) A borrower who obtains a Direct Unsubsidized Consolidation Loan during an in-school period will be subject to the repayment provisions in paragraph (c) of this section.

(f) *Determining the date on which the grace period begins for a borrower in a correspondence program.* For a borrower of a Direct Subsidized or Direct Unsubsidized Loan who is a correspondence student, the grace period begins on the earliest of the date—

(1) The borrower completes the program;

(2) The borrower falls 60 days behind the due date for submission of a scheduled assignment, according to the schedule required in Sec. 685.302. However, a school may grant the borrower one restoration to in-school status if the borrower fails to submit a lesson within this 60-day period after the due date for submission of a particular assignment if, within the 60-day period, the borrower declares, in writing, an intention to continue in the program and an understanding that the required lessons must be submitted on time; or

(3) That is 60 days following the latest allowable date established by the school for completing the program under the schedule required under Sec. 685.302.

(Authority: 20 U.S.C. 1087a et seq.)

**Sec. 685.208—Repayment plans.**

(a) *General.*

(1) A borrower may repay a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct Subsidized Consolidation Loan, or a Direct Unsubsidized Consolidation Loan under the standard repayment plan, the extended repayment plan, the graduated repayment plan, or the income contingent repayment plan.

(2) A borrower may repay a Direct PLUS Loan or a Direct PLUS Consolidation Loan under the standard repayment plan, the extended repayment plan, or the graduated repayment plan.

(3) The Secretary may provide an alternative repayment plan in accordance with paragraph (g) of this section.

(4) All Direct Loans obtained by one borrower must be repaid together under the same repayment plan, except that a borrower of a Direct PLUS Loan or a Direct PLUS Consolidation Loan may repay the Direct PLUS Loan or the Direct PLUS Consolidation Loan separately from other Direct Loans obtained by that borrower.

(b) *Standard repayment plan.*

(1) Under the standard repayment plan, a borrower shall repay a loan in full within ten years from the date the loan entered repayment by making fixed monthly payments.

(2) Periods of authorized deferment or forbearance are not included in the ten-year repayment period.

(3) A borrower's payments under the standard repayment plan are at least \$50 per month, except that a borrower's final payment may be less than \$50.

(4) The number of payments or the fixed monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in Sec. 685.202(a).

(c) *Extended repayment plan.*

(1) Under the extended repayment plan, a borrower shall repay a loan in full by making fixed monthly payments within an extended period of time that

varies with the total amount of the borrower's loans, as described in paragraph (e) of this section.

(2) Periods of deferment and forbearance are not included in the number of years of repayment.

(3) A borrower makes fixed monthly payments of at least \$50, except that a borrower's final payment may be less than \$50.

(4) The number of payments or the fixed monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in Sec. 685.202(a).

(d) *Graduated repayment plan.*

(1) Under the graduated repayment plan, a borrower shall repay a loan in full by making payments at two or more levels within a period of time that varies with the total amount of the borrower's loans, as described in paragraph (e) of this section.

(2) Periods of deferment and forbearance are not included in the number of years of repayment.

(3) The number of payments or the monthly repayment amount may be adjusted to reflect changes in the variable interest rate identified in Sec. 685.202(a).

(4) No scheduled payment under the graduated repayment plan may be less than the amount of interest accrued on the loan between monthly payments, less than 50 percent of the payment amount that would be required under the standard

repayment plan, or more than 150 percent of the payment amount that would be required under the standard repayment plan.

(e) *Repayment period for the extended and graduated plans.* Under the extended and graduated repayment plans, if the total amount of the borrower's Direct Loans is—

- (1) Less than \$10,000, the borrower shall repay the loans within 12 years of entering repayment;
- (2) Greater than or equal to \$10,000 but less than \$20,000, the borrower shall repay the loans within 15 years of entering repayment;
- (3) Greater than or equal to \$20,000 but less than \$40,000, the borrower shall repay the loans within 20 years of entering repayment;
- (4) Greater than or equal to \$40,000 but less than \$60,000, the borrower shall repay the loans within 25 years of entering repayment; and
- (5) Greater than or equal to \$60,000, the borrower shall repay the loans within 30 years of entering repayment.

(f) *Income contingent repayment plan.*

- (1) Under the income contingent repayment plan, a borrower's monthly repayment amount is generally based on the total amount of the borrower's Direct Loans, family size, and Adjusted Gross Income (AGI) reported by the borrower for the most recent year for which the Secretary has obtained income information. The borrower's AGI includes the income of the borrower's spouse. A borrower shall

make payments on a loan until the loan is repaid in full or until the loan has been in repayment through the end of the income contingent repayment period.

(2) The regulations in effect at the time a borrower enters repayment and selects the income contingent repayment plan or changes into the income contingent repayment plan from another plan govern the method for determining the borrowers's monthly repayment amount for all of the borrower's Direct Loans, unless—

- (i) The Secretary amends the regulations relating to a borrower's monthly repayment amount under the income contingent repayment plan; and
- (ii) The borrower submits a written request that the amended regulations apply to the repayment of the borrower's Direct Loans.

(3) Provisions governing the income contingent repayment plan are set out in Sec. 685.209.

(g) *Alternative repayment.*

- (1) The Secretary may provide an alternative repayment plan for a borrower who demonstrates to the Secretary's satisfaction that the terms and conditions of the repayment plans specified in paragraphs (b) through (f) of this section are not adequate to accommodate the borrower's exceptional circumstances.

- (2) The Secretary may require a borrower to provide evidence of the borrower's exceptional circumstances before permitting the borrower to repay a loan under an alternative repayment plan.
- (3) If the Secretary agrees to permit a borrower to repay a loan under an alternative repayment plan, the Secretary notifies the borrower in writing of the terms of the plan. After the borrower receives notification of the terms of the plan, the borrower may accept the plan or choose another repayment plan.
- (4) A borrower shall repay a loan under an alternative repayment plan within 30 years of the date the loan entered repayment, not including periods of deferment and forbearance.
- (5) If the amount of a borrower's monthly payment under an alternative repayment plan is less than the accrued interest on the loan, the unpaid interest is capitalized until the outstanding principal amount is 10 percent greater than the original principal amount. After the outstanding principal amount is 10 percent greater than the original principal amount, interest continues to accrue but is not capitalized. For purposes of this paragraph, the original principal amount is the amount owed by the borrower when the borrower enters repayment.

**(Authority: 20 U.S.C. 1087a et seq.)**

Note: (f)(1) and (2) revised June 19, 1996, effective July 1, 1996. (f)(2) revised May 9, 1997, effective July 1, 1996.

### **Sec. 685.209—Income contingent repayment plan.**

- (a) *Repayment amount calculation.*
  - (1) The amount the borrower would repay is based upon the borrower's Direct Loan debt when the borrower's first loan enters repayment, and this basis for calculation does not change unless the borrower obtains another Direct Loan or the borrower and the borrower's spouse obtain approval to repay their loans jointly under paragraph (b)(2) of this section. If the borrower obtains another Direct Loan, the amount the borrower would repay is based on the combined amounts of the loans when the last loan enters repayment. If the borrower and the borrower's spouse repay the loans jointly, the amount the borrowers would repay is based on both borrowers' Direct Loan debts at the time they enter joint repayment.
  - (2) The annual amount payable under the income contingent repayment plan by a borrower is the lesser of—
    - (i) The amount the borrower would repay annually over 12 years using standard amortization multiplied by an income percentage factor that corresponds to the borrower's adjusted gross income (AGI) as shown in the income percentage factor table in Appendix A to this part; or
    - (ii) 20 percent of discretionary income.
  - (3) For purposes of this section, discretionary income is defined as a

borrower's AGI minus the amount of the "HHS Poverty Guidelines for all States (except Alaska and Hawaii) and the District of Columbia" as published by the United States Department of Health and Human Services on an annual basis.<sup>1</sup> For residents of Alaska and Hawaii, discretionary income is defined as a borrower's AGI minus the amounts in the "HHS Poverty Guidelines for Alaska" and the "HHS Poverty Guidelines for Hawaii" respectively. If a borrower provides documentation acceptable to the Secretary that the borrower has more than one person in the borrower's family, the Secretary applies the HHS Poverty Guidelines for the borrower's family size.

- (4) For exact incomes not shown in the income percentage factor table in Appendix A, an income percentage factor is calculated, based upon the intervals between the incomes and income percentage factors shown on the table.
- (5) Each year, the Secretary recalculates the borrower's annual payment amount based on changes in the borrower's AGI, the variable interest rate, the income percentage factors in the table in Appendix A, and updated HHS Poverty Guidelines (if applicable).
- (6) If a borrower's monthly payment is calculated to be greater than \$0 but less than or equal to \$5.00, the amount payable by the borrower shall be \$5.00.

- (7) For purposes of the annual recalculation described in paragraph (a)(5) of this section, after periods in which a borrower makes payments that are less than interest accrued on the loan, the payment amount is recalculated based upon unpaid accrued interest and the highest outstanding principal loan amount (including amount capitalized) calculated for that borrower while paying under the income contingent repayment plan.
- (8) For each calendar year after calendar year 1996, the Secretary publishes in the Federal Register a revised income percentage factor table reflecting changes based on inflation. This revised table is developed by changing each of the dollar amounts contained in the table by a percentage equal to the estimated percentage changes in the Consumer Price Index (as determined by the Secretary) between December 1995 and the December next preceding the beginning of such calendar year.
- (9) Examples of the calculation of monthly repayment amounts and tables that show monthly repayment amounts for borrowers at various income and debt levels are included in Appendix A to this part.

1. The HHS Poverty Guidelines are available from the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (HHS), Room 438F, Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

(b) *Treatment of married borrowers.*

- (1) A married borrower who wishes to repay under the income contingent repayment plan and who has filed an income tax return separately from his or her spouse must provide his or her spouse's written consent to the disclosure of certain tax return information under paragraph (c)(5) of this section (unless the borrower is separated from his or her spouse). The AGI for both spouses is used to calculate the monthly repayment amount.
- (2) Married borrowers may repay their loans jointly. The outstanding balances on the loans of each borrower are added together to determine the borrowers' payback rate under (a)(1) of this section.
- (3) The amount of the payment applied to each borrower's debt is the proportion of the payments that equals the same proportion as that borrower's debt to the total outstanding balance, except that the payment is credited toward outstanding interest on any loan before any payment is credited toward principal.

(c) *Other features of the income contingent repayment plan.*

- (1) *Alternative documentation of income.* If a borrower's AGI is not available or if, in the Secretary's opinion, the borrower's reported AGI does not reasonably reflect the borrower's current income, the Secretary may use other documentation of income provided by the borrower to calculate

the borrower's monthly repayment amount.

- (2) *First and second year borrowers.* The Secretary requires alternative documentation of income from borrowers in their first and second years of repayment, when in the Secretary's opinion, the borrower's reported AGI does not reasonably reflect the borrower's current income.
- (3) *Adjustments to repayment obligations.* The Secretary may determine that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment to the borrower's repayment obligations.
- (4) *Repayment period.*
  - (i) The maximum repayment period under the income contingent repayment plan is 25 years.
  - (ii) The repayment period includes periods in which the borrower makes payments under the standard repayment plan and under extended repayment plans in which payments are based on a repayment period that is up to 12 years. The repayment period does not include periods in which the borrower makes payments under the graduated and alternative repayment plans or periods of authorized deferment or forbearance. The repayment period also does not include periods in which the borrower makes payments under an extended repayment plan in which payments

are based on a repayment period that is longer than 12 years.

- (iii) If a borrower repays more than one loan under the income contingent repayment plan, a separate repayment period for each loan begins when that loan enters repayment.
  - (iv) If a borrower has not repaid a loan in full at the end of the 25-year repayment period under the income contingent repayment plan, the Secretary cancels the unpaid portion of the loan.
  - (v) At the beginning of the repayment period under the income contingent repayment plan, a borrower shall make monthly payments of the amount of interest that accrues on the borrower's Direct Loans until the Secretary calculates the borrower's monthly repayment amount on the basis of the borrower's income.
- (5) *Limitation on capitalization of interest.* If the amount of a borrower's monthly payment is less than the accrued interest, the unpaid interest is capitalized until the outstanding principal amount is ten percent greater than the original principal amount. After the outstanding principal amount is ten percent greater than the original amount, interest continues to accrue but is not capitalized. For purposes of this paragraph, the original amount is the amount owed by the borrower when the borrower enters repayment.
- (6) *Notification of terms and conditions.* When a borrower elects or is required by the

Secretary to repay a loan under the income contingent repayment plan, the Secretary notifies the borrower of the terms and conditions of the plan, including—

- (i) That the Internal Revenue Service will disclose certain tax return information to the Secretary or the Secretary's agents; and
  - (ii) That if the borrower believes that special circumstances warrant an adjustment to the borrower's repayment obligations, as described in Sec. 685.209(c)(3), the borrower may contact the Secretary and obtain the Secretary's determination as to whether an adjustment is appropriate.
- (7) *Consent to disclosure of tax return information.*
- (i) A borrower shall provide written consent to the disclosure of certain tax return information by the Internal Revenue Service (IRS) to agents of the Secretary for purposes of calculating a monthly repayment amount and servicing and collecting a loan under the income contingent repayment plan. The borrower shall provide consent by signing a consent form, developed consistent with 26 CFR 301.6103(c)-1 and provided to the borrower by the Secretary, and shall return the signed form to the Secretary.

- (ii) The borrower shall consent to disclosure of the borrower's taxpayer identity information as defined in 26 U.S.C. 6103(b)(6), tax filing status, and AGI.
- (iii) The borrower shall provide consent for a period of five years from the date the borrower signs the consent form. The Secretary provides the borrower a new consent form before that period expires. The IRS does not disclose tax return information after the IRS has processed a borrower's withdrawal of consent.
- (iv) The Secretary designates the standard repayment plan for a borrower who selects the income contingent repayment plan but—
  - (A) Fails to provide the required written consent;
  - (B) Fails to renew written consent upon the expiration of the five-year period for consent; or
  - (C) Withdraws consent and does not select another repayment plan.
- (v) If a borrower defaults and the Secretary designates the income contingent repayment plan for the borrower but the borrower fails to provide the required written consent, the Secretary mails a notice to the borrower establishing a repayment schedule for the borrower.

(Authority: 20 U.S.C. 1087a et seq.)

(Approved by the Office of Management and Budget under control number 1840-0672)

**Note:** OMB control number added June 28, 1995, effective July 1, 1995. (a) and (b) amended; (c) removed; (d) redesignated as (c); new (c)(2) through (5) redesignated as (c)(4) through (7), respectively; (c)(2) and (c)(3) added December 1, 1995, effective July 1, 1996. Note: (a)(6) through (8) redesignated (a)(7) through (9) and new (a)(6) added; (c)(6)(ii) revised June 19, 1996, effective July 1, 1996.

#### **Sec. 685.210—Choice of repayment plan.**

- (a) *Initial selection of a repayment plan.*
  - (1) Before a Direct Loan enters into repayment, the Secretary provides the borrower a description of the available repayment plans and requests the borrower to select one. A borrower may select a repayment plan before the loan enters repayment by notifying the Secretary of the borrower's selection in writing.
  - (2) If a borrower does not select a repayment plan, the Secretary designates the standard repayment plan described in Sec. 685.208(b) for the borrower.
- (b) *Changing repayment plans.*
  - (1) A borrower may change repayment plans at any time after the loan has entered repayment by notifying the Secretary. However, a borrower who is repaying a defaulted loan under the income contingent repayment plan

under Sec. 685.211(c)(3)(ii) may not change to another repayment plan unless—

- (i) The borrower was required to and did make a payment under the income contingent repayment plan in each of the prior three (3) months; or
  - (ii) The borrower was not required to make payments but made three reasonable and affordable payments in each of the prior three months; and
  - (iii) The borrower makes and the Secretary approves a request to change plans.
- (2) (i) A borrower may not change to a repayment plan that has a maximum repayment period of less than the number of years the loan has already been in repayment, except that a borrower may change to the income contingent repayment plan at any time.
- (ii) If a borrower changes plans, the repayment period is the period provided under the borrower’s new repayment plan, calculated from the date the loan initially entered repayment. However, if a borrower changes to the income contingent repayment plan, the repayment period is calculated as described in Sec. 685.209(d)(2).

(Authority: 20 U.S.C. 1087a et seq.)

**Sec. 685.211—Miscellaneous repayment provisions.**

(a) *Payment application and prepayment.*

- (1) The Secretary applies any payment first to any accrued charges and collection costs, then to any outstanding interest, and then to outstanding principal.
  - (2) A borrower may prepay all or part of a loan at any time without penalty. If a borrower pays any amount in excess of the amount due, the excess amount is a prepayment.
  - (3) If a prepayment equals or exceeds the monthly repayment amount under the borrower’s repayment plan, the Secretary—
    - (i) Applies the prepaid amount according to paragraph (a)(1) of this section;
    - (ii) Advances the due date of the next payment unless the borrower requests otherwise; and
    - (iii) Notifies the borrower of any revised due date for the next payment.
  - (4) If a prepayment is less than the monthly repayment amount, the Secretary applies the prepayment according to paragraph (a)(1) of this section.
- (b) *Refunds from schools.* The Secretary applies any refund due to a borrower that the Secretary receives from a school under Sec. 668.22 against the borrower’s outstanding principal and notifies the borrower of the refund.
- (c) *Default.*
- (1) *Acceleration.* If a borrower defaults on a Direct Loan, the entire unpaid

- balance and accrued interest are immediately due and payable.
- (2) *Collection charges.* If a borrower defaults on a Direct Loan, the Secretary assesses collection charges in accordance with Sec. 685.202(e).
- (3) *Collection of a defaulted loan.*
- (i) The Secretary may take any action authorized by law to collect a defaulted Direct Loan including, but not limited to, filing a lawsuit against the borrower, reporting the default to national credit bureaus, requesting the Internal Revenue Service to offset the borrower's Federal income tax refund, and garnishing the borrower's wages.
- (ii) If a borrower defaults on a Direct Subsidized Loan, a Direct Unsubsidized Loan, a Direct Unsubsidized Consolidation Loan or a Direct Subsidized Consolidation Loan, the Secretary may designate the income contingent repayment plan for the borrower.
- (d) *Ineligible borrowers.*
- (1) The Secretary determines that a borrower is ineligible if, at the time the loan was made and without the school's or the Secretary's knowledge, the borrower (or the student on whose behalf a parent borrowed) provided false or erroneous information or took actions that caused the borrower or student—
- (i) To receive a loan for which the borrower is wholly or partially ineligible;
- (ii) To receive interest benefits for which the borrower was ineligible; or
- (iii) To receive loan proceeds for a period of enrollment for which the borrower was not eligible.
- (2) If the Secretary makes the determination described in paragraph (d)(1) of this section, the Secretary sends an ineligible borrower a demand letter that requires the borrower to repay some or all of a loan, as appropriate. The demand letter requires that within 30 days from the date the letter is mailed, the borrower repay any principal amount for which the borrower is ineligible and any accrued interest, including interest subsidized by the Secretary, through the previous quarter.
- (3) If a borrower fails to comply with the demand letter described in paragraph (d)(2) of this section, the borrower is in default on the entire loan.
- (4) A borrower may not consolidate a loan under Sec. 685.215 for which the borrower is wholly or partially ineligible.
- (e) *Rehabilitation of defaulted loans.* A defaulted Direct Loan is rehabilitated if the borrower makes 12 consecutive on-time, reasonable, and affordable monthly payments. The amount of such a payment is determined on the basis of the borrower's total financial circumstances. If a defaulted loan is rehabilitated, the Secretary instructs any credit bureau to which the default was reported to remove the default from the borrower's credit history.

(Authority: 20 U.S.C. 1087a et seq.)

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**Sec. 685.212—Discharge of a loan obligation.**

- (a) *Death.* If the Secretary receives acceptable documentation that a borrower (or the student on whose behalf a parent borrowed) has died, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan.
- (b) *Total and permanent disability.*
  - (1) If the Secretary receives acceptable documentation that a borrower has become totally and permanently disabled, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan.
  - (2) Except as provided in paragraph (b)(3)(i) of this section, a borrower is not considered totally and permanently disabled based on a condition that existed at the time the borrower applied for the loan unless the borrower's condition substantially deteriorated after the loan was made so as to render the borrower totally and permanently disabled.
  - (3) (i) For a Direct Consolidation Loan, a borrower is considered totally and permanently disabled if he or she would be considered totally and permanently disabled under paragraphs (b) (1) and (2) of this section for all of the loans that were included in the

Direct Consolidation Loan if those loans had not been consolidated.

- (ii) For the purposes of discharging a loan under paragraph (b)(3)(i) of this section, provisions in paragraphs (b) (1) and (2) of this section apply to each loan included in the Direct Consolidation Loan, even if the loan is not a Direct Loan Program loan.
- (iii) If requested, a borrower seeking to discharge a loan obligation under paragraph (b)(3)(i) of this section must provide the Secretary with the disbursement dates of the underlying loans.
- (c) *Bankruptcy.* If a borrower's obligation to repay a loan is discharged in bankruptcy, the Secretary does not require the borrower to make any further payments on the loan.
- (d) *Closed schools.* If a borrower meets the requirements in Sec. 685.213, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan.
- (e) *False certification and unauthorized disbursement.* If a borrower meets the requirements in Sec. 685.214, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan.
- (f) *Payments received after eligibility for discharge.* Upon receipt of acceptable documentation and approval of the discharge request, the Secretary returns to the sender, or, for a discharge based on death, the borrower's estate, those

payments received after the date that the eligibility requirements for discharge were met but prior to the date the discharge was approved. The Secretary also returns any payments received after the date the discharge was approved.

- (g) *Loan forgiveness demonstration program.* If funds are appropriated for the loan forgiveness demonstration program authorized by section 428J of the Act, the Secretary follows the procedures and applies the standards in 34 CFR 682.215 for borrowers under the Direct Loan Program.

(Authority: 20 U.S.C. 1087a et seq.)

Notes: (f) revised June 12, 1996, effective July 12, 1996. (c) revised June 3, 1997, effective June 3, 1997. (b) revised November 28, 1997, effective July 1, 1998.

### **Sec. 685.213—Closed school discharge.**

(a) *General.*

- (1) The Secretary discharges the borrower's (and any endorser's) obligation to repay a Direct Loan in accordance with the provisions of this section if the borrower (or the student on whose behalf a parent borrowed) did not complete the program of study for which the loan was made because the school at which the borrower (or student) was enrolled closed, as described in paragraph (c) of this section.
- (2) For purposes of this section—
  - (i) A school's closure date is the date that the school ceases to provide

educational instruction in all programs, as determined by the Secretary; and

- (ii) "School" means a school's main campus or any location or branch of the main campus.
- (b) *Relief pursuant to discharge.*
- (1) Discharge under this section relieves the borrower of any past or present obligation to repay the loan and any accrued charges or collection costs with respect to the loan.
  - (2) The discharge of a loan under this section qualifies the borrower for reimbursement of amounts paid voluntarily or through enforced collection on the loan.
  - (3) The Secretary does not regard a borrower who has defaulted on a loan discharged under this section as in default on the loan after discharge, and such a borrower is eligible to receive assistance under programs authorized by title IV of the Act.
  - (4) The Secretary reports the discharge of a loan under this section to all credit reporting agencies to which the Secretary previously reported the status of the loan.
- (c) *Borrower qualification for discharge.* In order to qualify for discharge of a loan under this section, a borrower shall submit to the Secretary a written request and sworn statement, and the factual assertions in the statement must be true. The statement need not be notarized but must be made by the borrower under penalty of perjury. In the statement, the borrower shall—

- (1) State that the borrower (or the student on whose behalf a parent borrowed)—
  - (i) Received the proceeds of a loan to attend a school;
  - (ii) Did not complete the program of study at that school because the school closed while the student was enrolled, or the student withdrew from the school not more than 90 days before the school closed (or longer in exceptional circumstances); and
  - (iii) Did not complete the program of study through a teach-out at another school or by transferring academic credits or hours earned at the closed school to another school;
- (2) State whether the borrower (or student) has made a claim with respect to the school’s closing with any third party, such as the holder of a performance bond or a tuition recovery program, and, if so, the amount of any payment received by the borrower (or student) or credited to the borrower’s loan obligation; and
- (3) State that the borrower (or student)—
  - (i) Agrees to provide to the Secretary upon request other documentation reasonably available to the borrower that demonstrates that the borrower meets the qualifications for discharge under this section; and
  - (ii) Agrees to cooperate with the Secretary in enforcement actions in accordance with paragraph (d) of this section and to transfer any

right to recovery against a third party to the Secretary in accordance with paragraph (e) of this section.

(d) *Cooperation by borrower in enforcement actions.*

- (1) In order to obtain a discharge under this section, a borrower shall cooperate with the Secretary in any judicial or administrative proceeding brought by the Secretary to recover amounts discharged or to take other enforcement action with respect to the conduct on which the discharge was based. At the request of the Secretary and upon the Secretary’s tendering to the borrower the fees and costs that are customarily provided in litigation to reimburse witnesses, the borrower shall—
  - (i) Provide testimony regarding any representation made by the borrower to support a request for discharge;
  - (ii) Produce any documents reasonably available to the borrower with respect to those representations; and
  - (iii) If required by the Secretary, provide a sworn statement regarding those documents and representations.
- (2) The Secretary denies the request for a discharge or revokes the discharge of a borrower who—
  - (i) Fails to provide the testimony, documents, or a sworn statement required under paragraph (d)(1) of this section; or

- (ii) Provides testimony, documents, or a sworn statement that does not support the material representations made by the borrower to obtain the discharge.
- (e) *Transfer to the Secretary of borrower's right of recovery against third parties.*
- (1) Upon discharge under this section, the borrower is deemed to have assigned to and relinquished in favor of the Secretary any right to a loan refund (up to the amount discharged) that the borrower (or student) may have by contract or applicable law with respect to the loan or the enrollment agreement for the program for which the loan was received, against the school, its principals, its affiliates and their successors, its sureties, and any private fund, including the portion of a public fund that represents funds received from a private party.
- (2) The provisions of this section apply notwithstanding any provision of State law that would otherwise restrict transfer of those rights by the borrower (or student), limit or prevent a transferee from exercising those rights, or establish procedures or a scheme of distribution that would prejudice the Secretary's ability to recover on those rights.
- (3) Nothing in this section limits or forecloses the borrower's (or student's) right to pursue legal and equitable relief regarding disputes arising from matters unrelated to the discharged Direct Loan.
- (f) *Discharge procedures.*
- (1) After confirming the date of a school's closure, the Secretary identifies any Direct Loan borrower (or student on whose behalf a parent borrowed) who appears to have been enrolled at the school on the school closure date or to have withdrawn not more than 90 days prior to the closure date.
- (2) If the borrower's current address is known, the Secretary mails the borrower a discharge application and an explanation of the qualifications and procedures for obtaining a discharge. The Secretary also promptly suspends any efforts to collect from the borrower on any affected loan. The Secretary may continue to receive borrower payments.
- (3) If the borrower's current address is unknown, the Secretary attempts to locate the borrower and determines the borrower's potential eligibility for a discharge under this section by consulting with representatives of the closed school, the school's licensing agency, the school's accrediting agency, and other appropriate parties. If the Secretary learns the new address of a borrower, the Secretary mails to the borrower a discharge application and explanation and suspends collection, as described in paragraph (f)(2) of this section.
- (4) If a borrower fails to submit the written request and sworn statement described in paragraph (c) of this section within 60 days of the Secretary's mailing the discharge application, the Secretary resumes collection and grants forbearance of

principal and interest for the period in which collection activity was suspended. The Secretary may capitalize any interest accrued and not paid during that period.

- (5) If the Secretary determines that a borrower who requests a discharge meets the qualifications for a discharge, the Secretary notifies the borrower in writing of that determination.
- (6) If the Secretary determines that a borrower who requests a discharge does not meet the qualifications for a discharge, the Secretary notifies that borrower in writing of that determination and the reasons for the determination.

**(Authority: 20 U.S.C. 1087a et seq.)**

(Approved by the Office of Management and Budget under control number 1840-0672) Note: OMB control number added June 28, 1995, effective July 1, 1995

**Sec. 685.214—Discharge for false certification of student eligibility or unauthorized payment.**

(a) *Basis for discharge.*

- (1) *False certification.* The Secretary discharges a borrower’s (and any endorser’s) obligation to repay a Direct Loan in accordance with the provisions of this section if a school falsely certifies the eligibility of the borrower (or the student on whose behalf a parent borrowed) to receive the loan. The Secretary considers a student’s eligibility to borrow to have been falsely certified by the school if the school—

- (i) Certified the student’s eligibility for a Direct Loan on the basis of ability to benefit from its training and the student did not meet the eligibility requirements described in 34 CFR part 668 and section 484(d) of the Act, as applicable;
- (ii) Signed the borrower’s name on the loan application or promissory note without the borrower’s authorization; or
- (iii) Certified the eligibility of a student who, because of a physical or mental condition, age, criminal record, or other reason accepted by the Secretary, would not meet the requirements for employment (in the student’s State of residence when the loan was originated) in the occupation for which the training program supported by the loan was intended.

- (2) *Unauthorized payment.* The Secretary discharges a borrower’s (and any endorser’s) obligation to repay a Direct Loan if the school, without the borrower’s authorization, endorsed the borrower’s loan check or signed the borrower’s authorization for electronic funds transfer, unless the proceeds of the loan were delivered to the student or applied to charges owed by the student to the school.

(b) *Relief pursuant to discharge.*

- (1) Discharge for false certification under paragraph (a)(1) of this section relieves the borrower of any past or present obligation to repay the loan

- and any accrued charges and collection costs with respect to the loan.
- (2) Discharge for unauthorized payment under paragraph (a)(2) of this section relieves the borrower of the obligation to repay the amount of the payment discharged.
- (3) The discharge under this section qualifies the borrower for reimbursement of amounts paid voluntarily or through enforced collection on the discharged loan or payment.
- (4) The Secretary does not regard a borrower who has defaulted on a loan discharged under this section as in default on the loan after discharge, and such a borrower is eligible to receive assistance under programs authorized by title IV of the Act.
- (5) The Secretary reports the discharge under this section to all credit reporting agencies to which the Secretary previously reported the status of the loan.
- (c) *Borrower qualification for discharge.* In order to qualify for discharge under this section, the borrower shall submit to the Secretary a written request and a sworn statement, and the factual assertions in the statement must be true. The statement need not be notarized but must be made by the borrower under penalty of perjury. In the statement, the borrower shall meet the requirements in paragraphs (c) (1) through (5) of this section
- (1) *Ability to benefit.* In the case of a borrower requesting a discharge based on the school's defective testing of the student's ability to benefit, the borrower shall state that the borrower (or the student on whose behalf a parent borrowed)—
- (i) Received a disbursement of a loan to attend a school;
- (ii) Received a Direct Loan at that school on the basis of an ability to benefit from the school's training and did not meet the eligibility requirements described in 34 CFR Part 668 and section 484(d) of the Act, as applicable; and
- (iii) Either—
- (A) Withdrew from the school and did not find employment in the occupation for which the training program was intended; or
- (B) Completed the training program for which the loan was made, made reasonable attempts to obtain employment in the occupation for which the program was intended, and was not able to find employment in that occupation or obtained employment in that occupation only after receiving additional training that was not provided by the school that originated the loan.
- (2) *Unauthorized loan.* In the case of a borrower requesting a discharge because the school signed the borrower's name on the loan application or promissory note

without the borrower's authorization, the borrower shall—

- (i) State that he or she did not sign the document in question or authorize the school to do so; and
  - (ii) Provide five different specimens of his or her signature, two of which must be within one year before or after the date of the contested signature.
- (3) *Unauthorized payment.* In the case of a borrower requesting a discharge because the school, without the borrower's authorization, endorsed the borrower's loan check or signed the borrower's authorization for electronic funds transfer, the borrower shall—
- (i) State that he or she did not endorse the loan check or sign the authorization for electronic funds transfer or authorize the school to do so;
  - (ii) Provide five different specimens of his or her signature, two of which must be within one year before or after the date of the contested signature;
  - (iii) State that the proceeds of the contested disbursement were not delivered to the student or applied to charges owed by the student to the school.
- (4) *Claim to third party.* The borrower shall state whether the borrower (or student) has made a claim with respect to the school's false certification or unauthorized payment with any third party, such as the holder of a

performance bond or a tuition recovery program, and, if so, the amount of any payment received by the borrower (or student) or credited to the borrower's loan obligation.

- (5) *Cooperation with Secretary.* The borrower shall state that the borrower (or student)—
- (i) Agrees to provide to the Secretary upon request other documentation reasonably available to the borrower that demonstrates that the borrower meets the qualifications for discharge under this section; and
  - (ii) Agrees to cooperate with the Secretary in enforcement actions as described in Sec. 685.213(d) and to transfer any right to recovery against a third party to the Secretary as described in Sec. 685.213(e).
- (d) *Discharge procedures.*
- (1) If the Secretary determines that a borrower's Direct Loan may be eligible for a discharge under this section, the Secretary mails the borrower a disclosure application and an explanation of the qualifications and procedures for obtaining a discharge. The Secretary also promptly suspends any efforts to collect from the borrower on any affected loan. The Secretary may continue to receive borrower payments.
  - (2) If the borrower fails to submit the written request and sworn statement described in paragraph (c) of this

section within 60 days of the Secretary's mailing the disclosure application, the Secretary resumes collection and grants forbearance of principal and interest for the period in which collection activity was suspended. The Secretary may capitalize any interest accrued and not paid during that period.

- (3) If the borrower submits the written request and sworn statement described in paragraph (c) of the section, the Secretary determines whether to grant a request for discharge under this section by reviewing the request and sworn statement in light of information available from the Secretary's records and from other sources, including guaranty agencies, State authorities, and cognizant accrediting associations.
- (4) If the Secretary determines that the borrower meets the applicable requirements for a discharge under paragraph (c) of this section, the Secretary notifies the borrower in writing of that determination.
- (5) If the Secretary determines that the borrower does not qualify for a discharge, the Secretary notifies the borrower in writing of that determination and the reasons for the determination.

**(Authority: 20 U.S.C. 1087a et seq.)**

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**Note:** (a)(1)(iii) and (c)(1)(iii)(B) revised June 12, 1996, effective July 12, 1996.

### **Sec. 685.215—Consolidation**

- (a) *Direct Consolidation Loans.* A borrower may consolidate one or more education loans made under certain Federal programs into one or more Direct Consolidation Loans. Loans consolidated into a Direct Consolidation Loan are discharged when the Direct Consolidation Loan is originated.
- (b) *Loans eligible for consolidation.* The following loans may be consolidated into a Direct Consolidation Loan:
  - (1) Federal Stafford Loans.
  - (2) Guaranteed Student Loans.
  - (3) Federal Insured Student Loans (FISL).
  - (4) Direct Subsidized Loans.
  - (5) Direct Subsidized Consolidation Loans.
  - (6) Federal Perkins Loans.
  - (7) National Direct Student Loans (NDSL).
  - (8) National Defense Student Loans (NDSL).
  - (9) Federal PLUS Loans.
  - (10) Parent Loans for Undergraduate Students (PLUS).
  - (11) Direct PLUS Loans.
  - (12) Direct PLUS Consolidation Loans.
  - (13) Federal Unsubsidized Stafford Loans.

- (14) Federal Supplemental Loans for Students (SLS).
- (15) Federal Consolidation Loans.
- (16) Direct Unsubsidized Loans.
- (17) Direct Unsubsidized Consolidation Loans.
- (18) Auxiliary Loans to Assist Students (ALAS).
- (19) Health Professions Student Loans (HPSL) and Loans for Disadvantaged Students (LDS) made under subpart II of part A of title VII of the Public Health Service Act.
- (20) Health Education Assistance Loans (HEAL).
- (21) Nursing loans made under subpart II of part B of title VIII of the Public Health Service Act.

(c) *Types of Direct Consolidation Loans.*

- (1) The loans identified in paragraphs (b)(1) through (8) of this section may be consolidated into a Direct Subsidized Consolidation Loan.
- (2) The loans identified in paragraphs (b)(9) through (12) of this section may be consolidated into a Direct PLUS Consolidation Loan.
- (3) The loans identified in paragraphs (b)(13) through (21) of this section may be consolidated into a Direct Unsubsidized Consolidation Loan. In addition, Federal Consolidation Loans under (b)(15) of this section may be consolidated into a Direct Subsidized Consolidation Loan, if they are eligible

for interest benefits during a deferment period under Section 428C(b)(4)(C) of the Act.

(d) *Eligibility for a Direct Consolidation Loan.*

(1) A borrower may obtain a Direct Consolidation Loan if, at the time the borrower applies for such a loan, the borrower meets the following requirements:

(i) The borrower either—

(A) Has an outstanding balance on a Direct Loan; or

(B) Has an outstanding balance on an FFEL loan and asserts either—

(1) That the borrower is unable to obtain an FFEL consolidation loan; or

(2) That the borrower is unable to obtain an FFEL consolidation loan with income-sensitive repayment terms acceptable to the borrower and is eligible for the income contingent repayment plan under the Direct Loan Program.

(ii) On the loans being consolidated, the borrower is—

(A) In an in-school period and seeks to consolidate loans made under both

- the FFEL Program and the Direct Loan Program;
- (B) In an in-school period at a school participating in the Direct Loan Program and seeks to consolidate loans made under the FFEL Program;
- (C) In a six-month grace period;
- (D) In a repayment period but not in default;
- (E) In default but has made satisfactory repayment arrangements, as defined in paragraph (2) of that term under Sec. 685.102(b), on the defaulted loan; or
- (F) In default but agrees to repay the consolidation loan under the income contingent repayment plan described in Sec. 685.208(f) and signs the consent form described in Sec. 685.209(d)(5).
- (iii) The borrower certifies that no other application to consolidate any of the borrower's loans listed in paragraph (b) of this section is pending with any other lender.
- (iv) The borrower agrees to notify the Secretary of any change in address.
- (v) In the case of a Direct PLUS Consolidation Loan—
- (A) The borrower may not have an adverse credit history as defined in Sec. 685.200(b)(7)(ii); or
- (B) If the borrower has such an adverse credit history, the borrower shall obtain an endorser for the consolidation loan who does not have an adverse credit history or provide documentation satisfactory to the Secretary that extenuating circumstances relating to the borrower's credit history exist.
- (vi) In the case of a defaulted Direct Consolidation Loan, the borrower obtains the approval of the Secretary.
- (vii) In the case of a loan on which the holder has obtained a judgment, the borrower obtains the approval of the Secretary.
- (2) Two married borrowers may consolidate their loans together if they meet the following requirements:
- (i) At least one spouse meets the requirements of paragraphs (d)(1)(i) and (d)(1)(v) of this section.
- (ii) Both spouses meet the requirements of paragraphs (d)(1)(ii) through (d)(1)(iv) of this section.
- (iii) Each spouse agrees to be held jointly and severally liable for the repayment of the total amount of

the consolidation loan and to repay the loan regardless of any change in marital status.

(e) *Application for a Direct Consolidation Loan.* To obtain a Direct Consolidation Loan, a borrower or borrowers shall submit a completed application to the Secretary. A single application may be used for one or more consolidation loans. A borrower may add eligible loans to a Direct Consolidation Loan by submitting a request to the Secretary within 180 days after the date on which the Direct Consolidation Loan is originated.

(f) *Origination of a consolidation loan.*

(1)(i) The holder of a loan that a borrower wishes to consolidate into a Direct Loan shall complete and return the Secretary's request for certification of the amount owed within 10 business days of receipt or, if it is unable to provide the certification, provide to the Secretary a written explanation of the reasons for its inability to provide the certification.

(ii) If the Secretary approves an application for a consolidation loan, the Secretary pays to each holder of a loan selected for consolidation the amount necessary to discharge the loan.

(iii) For a Direct Loan or FFEL Program loan that is in default, the Secretary limits collection costs that may be charged to the borrower to no more than those authorized under the FFEL Program and may impose reasonable limits on collection costs paid to the holder.

(2) Upon receipt of the proceeds of a Direct Consolidation Loan, the holder of a consolidated loan shall promptly apply the proceeds to fully discharge the borrower's obligation on the consolidated loan. The holder of a consolidated loan shall notify the borrower that the loan has been paid in full.

(3) The principal balance of a Direct Consolidation Loan is equal to the sum of the amounts paid to the holders of the consolidated loans.

(4) If the amount paid by the Secretary to the holder of a consolidated loan exceeds the amount needed to discharge that loan, the holder of the consolidated loan shall promptly refund the excess amount to the Secretary to be credited against the outstanding balance of the Direct Consolidation Loan.

(5) If the amount paid by the Secretary to the holder of the consolidated loan is insufficient to discharge that loan, the holder shall notify the Secretary in writing of the remaining amount due on the loan. The Secretary promptly pays the remaining amount due.

(g) *Interest rate.* The interest rate on a Direct Subsidized Consolidation Loan or a Direct Unsubsidized Consolidation Loan is the rate established for Direct Subsidized Loans and Direct Unsubsidized Loans under Sec. 685.202(a)(1). The interest rate on a Direct PLUS Consolidation Loan is the rate established for Direct PLUS Loans under Sec. 685.202(a)(2).

- (h) *Repayment plans.* A borrower may repay a Direct Consolidation Loan under any of the repayment plans described in Sec. 685.208, except that—
- (1) A borrower may not repay a Direct PLUS Consolidation Loan under the income contingent repayment plan; and
  - (2) A borrower who became eligible to consolidate a defaulted loan under paragraph (d)(1)(ii)(E) of this section shall repay the consolidation loan under the income contingent repayment plan unless—
    - (i) The borrower was required to and did make a payment under the income contingent repayment plan in each of the prior three (3) months; or
    - (ii) The borrower was not required to make payments but made three reasonable and affordable payments in each of the prior three (3) months; and
    - (iii) The borrower makes and the Secretary approves a request to change plans.
- (i) *Repayment period.*
- (1) Except as noted in paragraph (i)(4) of this section, the repayment period for a Direct Consolidation Loan begins on the day the loan is disbursed.
  - (2) Under the extended or graduated repayment plan, the Secretary determines the repayment period under Sec. 685.208(e) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraph (i)(3) of this section.
- (3)(i) The total amount of outstanding balances on the other education loans used to determine the repayment period under the graduated or extended repayment plan may not exceed the amount of the Direct Consolidation Loan.
- (ii) The borrower may not be in default on the other education loan unless the borrower has made satisfactory repayment arrangements with the holder of the loan.
  - (iii) The lender of the other educational loan may not be an individual.
- (4) A Direct Consolidation Loan receives a grace period if it includes a Direct Loan or FFEL Program loan for which the borrower is in an in-school period at the time of consolidation. The repayment period begins the day after the grace period ends.
- (j) *Repayment schedule.*
- (1) The Secretary provides a borrower of a Direct Consolidation Loan a repayment schedule before the borrower's first payment is due. The repayment schedule identifies the borrower's monthly repayment amount under the repayment plan selected.
  - (2) If a borrower adds an eligible loan to the consolidation loan under paragraph (e) of this section, the

Secretary makes appropriate adjustments to the borrower's monthly repayment amount and repayment period.

- (k) *Refunds received from schools.* If a lender receives a refund from a school on a loan that has been consolidated into a Direct Consolidation Loan, the lender shall transmit the refund and an explanation of the source of the refund to the Secretary within 30 days of receipt.
- (l) *Special provisions for joint consolidation loans.* The provisions of paragraphs (l)(1) through (3) of this section apply to a Direct Consolidation Loan obtained by two married borrowers.
  - (1) *Deferment.* To obtain a deferment on a joint Direct Consolidation Loan under Sec. 685.204, both borrowers shall meet the requirements of that section.
  - (2) *Forbearance.* To obtain forbearance on a joint Direct Consolidation Loan under Sec. 685.205, both borrowers shall meet the requirements of that section.
  - (3) *Discharge.*
    - (i) To obtain a discharge of a joint Direct Consolidation Loan under Sec. 685.212, each borrower shall meet the requirements for one of the types of discharge described in that section.
    - (ii) If a borrower meets the requirements for discharge under Sec. 685.212(d) or (e) on a loan that was consolidated into a joint Direct Consolidation Loan and the borrower's spouse does not meet the requirements for any type of discharge described in Sec. 685.212,

the Secretary discharges a portion of the consolidation loan equal to the amount of the loan that would have been eligible for discharge under the provisions of Sec. 685.212(d) or (e), as applicable.

**(Authority: 20 U.S.C. 1078-8, 1087a et seq.)**

(Approved by the Office of Management and Budget under control number 1840-0672)

Note: OMB control number added June 28, 1995, effective July 1, 1995.

(b)(19), (b)(21), (c)(3), (d) (1)(ii)(E), and (f)(1)(iii) revised June 12, 1996, effective July 12, 1996.

***Subpart C: Requirements, Standards, and Payments for the Direct Loan Program Schools***

**Sec. 685.300—Agreements between an eligible school and the Secretary for participation in the Direct Loan Program.**

- (a) *General.*
  - (1) Participation of a school in the Direct Loan Program means that eligible students at the school may receive Direct Loans. To participate in the Direct Loan Program, a school shall—
    - (i) Demonstrate to the satisfaction of the Secretary that the school meets the requirements for eligibility under the Act and applicable regulations; and

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| <ul style="list-style-type: none"> <li>(ii) Enter into a written program participation agreement with the Secretary.</li> <li>(2) The chief executive officer of the school shall sign the program participation agreement on behalf of the school.</li> <li>(b) <i>Program participation agreement.</i> In the program participation agreement, the school shall promise to comply with the Act and applicable regulations and shall agree to— <ul style="list-style-type: none"> <li>(1) Identify eligible students who seek student financial assistance at the institution in accordance with section 484 of the Act;</li> <li>(2) Estimate the need of each of these students as required by part F of the Act for an academic year. For purposes of estimating need, a Direct Unsubsidized Loan, a Direct PLUS Loan, or any loan obtained under any State-sponsored or private loan program may be used to offset the expected family contribution of the student for that year;</li> <li>(3) Certify that the amount of the loan for any student under part D of the Act is not in excess of the annual limit applicable for that loan program and that the amount of the loan, in combination with previous loans received by the borrower, is not in excess of the aggregate limit for that loan program;</li> <li>(4) Set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>requirements of section 428G of the Act;</li> <li>(5) Provide timely and accurate information to the Secretary for the servicing and collecting of loans— <ul style="list-style-type: none"> <li>(i) Concerning the status of student borrowers (and students on whose behalf parents borrow) while these students are in attendance at the school;</li> <li>(ii) Upon request by the Secretary, concerning any new information of which the school becomes aware for these students (or their parents) after the student leaves the school; and</li> <li>(iii) Concerning student eligibility and need, for the alternative origination of loans to eligible students and parents in accordance with part D of the Act;</li> </ul> </li> <li>(6) Provide assurances that the school will comply with requirements established by the Secretary relating to student loan information with respect to loans made under the Direct Loan Program;</li> <li>(7) Provide that the school will accept responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;</li> <li>(8) Provide that eligible students at the school and their parents may participate in the programs under part B of the Act at the discretion of the Secretary for the period during which the school participates in the Direct Loan Program under part D of the</li> </ul> |
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Act, except that a student may not receive loans under both part D of the Act and part B of the Act for the same period of enrollment and a parent (borrowing for the same student) may not receive loans under both part D of the Act and part B of the Act for the same period of enrollment;

- (9) Provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with the school, to ensure that the school is complying with program requirements and meeting program objectives;
- (10) Provide that the school will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under part D of the Act or any benefits associated with such a loan; and
- (11) Comply with other provisions that the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of part D of the Act.

(c) *Origination.*

- (1) If a school or consortium originates loans in the Direct Loan Program, it shall enter into a supplemental agreement that—
  - (i) Provides that the school or consortium will originate loans to eligible students and parents in accordance with part D of the Act; and

- (ii) Provides that the note or evidence of obligation on the loan is the property of the Secretary.

- (2) The chief executive officer of the school shall sign the supplemental agreement on behalf of the school.

(Authority: 20 U.S.C. 1087a et seq., 1094)

**Sec. 685.301—Origination of a loan by a Direct Loan Program school.**

(a) *Determining eligibility and loan amount.*

- (1) A school participating in the Direct Loan Program shall ensure that any information it provides to the Secretary in connection with loan origination is complete and accurate. A school shall originate a Direct Loan while the student meets the borrower eligibility requirements of Sec. 685.200. Except as provided in 34 CFR Part 668, subpart E, a school may rely in good faith upon statements made in the application by the student.
- (2) A school shall provide to the Secretary borrower information that includes but is not limited to—
  - (i) The borrower’s eligibility for a loan, as determined in accordance with Sec. 685.200 and Sec. 685.203;
  - (ii) The student’s loan amount; and
  - (iii) The anticipated and actual disbursement date or dates and disbursement amounts of the loan proceeds.

- (3) A school may not originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan, or a combination of loans, for an amount that—
- (i) The school has reason to know would result in the borrower exceeding the annual or maximum loan amounts in Sec. 685.203; or
  - (ii) Exceeds the student's estimated cost of attendance less—
    - (A) The student's estimated financial assistance for that period; and
    - (B) In the case of a Direct Subsidized Loan, the borrower's expected family contribution for that period.
- (4) (i) A school determines a Direct Subsidized or Direct Unsubsidized Loan amount in accordance with Sec. 685.203 and the definitions in 34 CFR 668.2 for the proration of loan amounts required for undergraduate students.
- (ii) When prorating a loan amount for a student enrolled in a program of study with less than a full academic year remaining, the school need not recalculate the amount of the loan if the number of hours for which an eligible student is enrolled changes after the school originates the loan.
- (5) The date of loan origination is the date a school creates the electronic loan origination record.
- (6) If a student has received a determination of need for a Direct Subsidized Loan that is \$200 or less, a school may choose not to originate a Direct Subsidized Loan for that student and to include the amount as part of a Direct Unsubsidized Loan.
- (7) A school may refuse to originate a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the student in writing, and if—
- (i) The determination is made on a case-by-case basis;
  - (ii) The documentation supporting the determination is retained in the student's file; and
  - (iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to Direct Loans because of the borrower's race, gender, color, religion, national origin, age, disability status, or income.
- (8) A school may not assess a fee for the completion or certification of any Direct Loan Program forms or information or for the origination of a Direct Loan.
- (b) *Determining disbursement dates and amounts.*
- (1) Before disbursing a loan, a school that originates loans shall determine that all information required by the loan application and promissory note has been provided by the borrower and, if applicable, the student.

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| <p>(2) Unless paragraph (b)(5), (6), or (7) of this section applies, an institution shall disburse the loan proceeds on a payment period basis in accordance with 34 CFR 668.164(b).</p> <p>(3) Unless paragraph (b)(4), (5), or (6) of this section applies—</p> <p>(i) If a loan period is more than one payment period, the school shall disburse loan proceeds at least once in each payment period; and</p> <p>(ii) If a loan period is one payment period, the school shall make at least two disbursements during that payment period. The school may not make the second disbursement until the calendar midpoint between the first and last scheduled days of class of the loan period.</p> <p>(4) (i) If one or more payment periods have elapsed before a school makes a disbursement, the school may include in the disbursement loan proceeds for completed payment periods; or</p> <p>(ii) If the loan period is equal to one payment period and more than one-half of it has elapsed, the school may include in the disbursement loan proceeds for the entire payment period.</p> <p>(5) If an educational program measures academic progress in credit hours and does not use semesters, trimesters, or quarters, the school may not make a second disbursement until the later of—</p> | <p>(i) The calendar midpoint between the first and last scheduled days of class of the loan period; or</p> <p>(ii) The date, as determined by the institution, that the student has completed half of the academic coursework in the loan period.</p> <p>(6) If an educational program measures academic progress in clock hours, the school may not make a second disbursement until the later of—</p> <p>(i) The calendar midpoint between the first and last scheduled days of class of the loan period; or</p> <p>(ii) The date, as determined by the institution, that the student has completed half of the clock hours in the loan period.</p> <p>(7) The school must disburse loan proceeds in substantially equal installments, and no installment may exceed one-half of the loan.</p> <p>(8) A school not in a State is not required to make more than one disbursement.</p> <p>(c) <i>Promissory note handling.</i></p> <p>(1) The Secretary provides promissory notes for use in the Direct Loan Program. A school may not modify, or make any additions to, the promissory note without the Secretary's prior written approval.</p> <p>(2) A school that originates a loan shall provide to the Secretary an executed, legally enforceable promissory note as proof of the borrower's indebtedness.</p> |
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(d) *Reporting to the Secretary.*

- (1) A school that originates a loan must submit the promissory note, loan origination record, and initial and subsequent disbursement records to the Secretary no later than 30 days following the date of disbursement. A school must submit the loan origination record and disbursement record to the Secretary no later than 30 days following the date of disbursement for each subsequent disbursement.
- (2) A school that participates under standard origination must submit the initial and subsequent disbursement record to the Secretary no later than 30 days following the date of disbursement. A school must submit the disbursement record to the Secretary no later than 30 days following the date of disbursement for each subsequent disbursement.

**(Authority: 20 U.S.C. 1087a et seq.)**

(Approved by the Office of Management and Budget under control number 1840-0672)

**Note:** OMB control number added June 28, 1995, effective July 1, 1995. (a)(5) and (a)(6) redesignated as (a)(6) and (a)(7), respectively, and (a)(5) and (d) added December 1, 1995, effective July 1, 1996. (a)(1), (a)(3), (a)(4)(ii), and (b)(2)(iv) revised June 12, 1996, effective July 12, 1996.

**Note:** (a)(6) and (a)(7) revised June 19, 1996, effective July 1, 1996. (b) amended November 29, 1996, effective July 1, 1997. (a)(6) and (a)(7) redesignated as

(a)(7) and (a)(8), respectively, and new (a)(6) added November 28, 1997, effective July 1, 1998.

**Sec. 685.302—Schedule requirements for courses of study by correspondence.**

- (a) This section contains requirements relating to the enrollment status of students in schools that offer programs of study by correspondence.
- (b) A school that offers a course of study by correspondence shall establish a schedule for submission of lessons by its students and provide it to a prospective student prior to the student's enrollment.
- (c) The school shall include in its schedule—
  - (1) A due date for each lesson in the course;
  - (2) A description of the options, if any, available to the student for altering the sequence of lesson submissions from the sequence in which they are otherwise required to be submitted;
  - (3) The date by which the course is to be completed; and
  - (4) The date by which any resident training must begin, the location of any resident training, and the period of time within which that resident training must be completed.

**(Authority: 20 U.S.C. 1087a et seq.)**

(Approved by the Office of Management and Budget under control number 1840-0672)

**Note:** OMB control number added June 28, 1995, effective July 1, 1995.

**Sec. 685.303—Processing loan proceeds.**

(a) *Purpose.* This section establishes rules governing a school's processing of a borrower's Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan proceeds. The school shall also comply with any rules for processing loan proceeds contained in 34 CFR Part 668.

(b) *General.*

(1) (i) *A school that initiates the drawdown of funds.* A school may not disburse loan proceeds to a borrower unless the school has obtained an executed, legally enforceable promissory note from the borrower.

(ii) *A school that does not initiate the drawdown of funds.* A school may disburse loan proceeds only to a borrower for whom the school has received funds from the Secretary.

(2) (i) Except in the case of a late disbursement under paragraph (d) of this section, or as provided in paragraph (b)(2)(iii) of this section, a school may disburse loan proceeds only to a student, or a parent in the case of a PLUS Loan, if the school determines the student has continuously maintained eligibility in accordance with the provisions of Sec. 685.200 from the beginning of the loan period described in the promissory note.

(ii) In the event a student delays attending school for a period of time, the school may consider that student to have maintained eligibility for the loan from the first day of the period of enrollment. However, the school must comply

with the requirements under paragraph (b)(3) of this section.

(iii) If, after a school makes the first disbursement to a borrower, the student becomes ineligible due solely to the school's loss of eligibility to participate in the title IV programs or the Direct Loan Program, the school may make subsequent disbursements to the borrower as permitted by 34 CFR Part 668.

(iv) If, prior to making any disbursement to a borrower, the student temporarily ceases to be enrolled on at least a half-time basis, the school may make a disbursement and any subsequent disbursement to the student if the school determines and documents in the student's file—

(A) That the student has resumed enrollment on at least a half-time basis;

(B) The student's revised cost of attendance; and

(C) That the student continues to qualify for the entire amount of the loan, notwithstanding any reduction in the student's cost of attendance caused by the student's temporary cessation of enrollment on at least a half-time basis.

(3) If a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the loan is made, or fails

to attend school during that period, or if the school is unable for any other reason to document that the student attended school during that period, the school shall notify the Secretary, within 30 days of the date described in Sec. 685.305(a), of the student's withdrawal, expulsion, or failure to attend school, as applicable, and return to the Secretary—

- (i) Any loan proceeds credited by the school to the student's account; and
  - (ii) The amount of payments made by the student to the school, to the extent that they do not exceed the amount of any loan proceeds disbursed by the school to the student.
- (4) If a student is enrolled in the first year of an undergraduate program of study and has not previously received a Federal Stafford, Federal Supplemental Loans for Students, Direct Subsidized, or Direct Unsubsidized Loan, a school may not disburse the proceeds of a Direct Subsidized or Direct Unsubsidized Loan until 30 days after the first day of the student's program of study.
- (c) *Processing of the proceeds of a Direct Loan.* Schools shall follow the procedures for disbursing funds in 34 CFR 668.164.
- (d) *Late Disbursement.* A school may make a late disbursement according to the provisions found under 34 CFR 668.164(g).
- (e) *Treatment of excess loan proceeds.* Before the disbursement of any Direct Subsidized or

Direct Unsubsidized Loan proceeds, if a school learns that the borrower will receive or has received financial aid for the period of enrollment for which the loan was intended that exceeds the amount of assistance for which the student is eligible, the school shall reduce or eliminate the overaward by either—

- (1) Using the student's Direct Unsubsidized, Direct PLUS, or State-sponsored or another non-Federal loan to cover the expected family contribution, if not already done; or
- (2) Reducing one or more subsequent disbursements to eliminate the overaward.

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**Note:** OMB control number added June 28, 1995, effective July 1, 1995. (b)(2)(i) revised and (d)(3)(iii) and (d)(3)(iv) added June 12, 1996, effective July 12, 1996. (c) and (d) amended November 29, 1996, effective July 1, 1997.

### **Sec. 685.304—Counseling borrowers.**

- (a) *Initial counseling.*
  - (1) Except as provided in paragraph (a)(5) of this section, a school shall conduct initial counseling prior to making the first disbursement of the proceeds of a Direct Subsidized or Direct Unsubsidized Loan to a borrower unless—
    - (i) The borrower is enrolled in a correspondence program or a

<p>study-abroad program approved for credit at the home school; or</p> <p>(ii) The borrower has received a prior Direct Subsidized, Direct Unsubsidized, Federal Stafford, Federal Unsubsidized Stafford, or Federal SLS Loan.</p> <p>(2) The counseling must be in person, by audiovisual presentation, or by computer-assisted technology. In each case, the school shall ensure that an individual with knowledge of the title IV programs is reasonably available shortly after the counseling to answer the borrower’s questions regarding those programs. In the case of a student enrolled in a correspondence program or a study-abroad program approved for credit at the home school, the school shall provide the borrower with written counseling materials by mail prior to disbursing the loan proceeds.</p> <p>(3) In conducting the initial counseling, the school shall—</p> <p>(i) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming;</p> <p>(ii) Describe in forceful terms the likely consequences of default, including adverse credit reports, garnishment of wages, and litigation;</p> <p>(iii) Provide the borrower with general information with respect to the average indebtedness of students who have obtained Direct Subsidized or Direct Unsubsidized Loans for attendance at that school</p>	<p>or in the borrower’s program of study; and</p> <p>(iv) Inform the student as to the average anticipated monthly repayment for those students based on the average indebtedness provided under paragraph (a)(3)(iii) of this section.</p> <p>(4) Additional matters that the Secretary recommends that a school include in the initial counseling session or materials are set forth in Appendix D to 34 CFR Part 668.</p> <p>(5) A school may adopt an alternative approach for initial counseling as part of the school’s quality assurance plan described in Sec. 685.300(b)(9). If a school adopts an alternative approach, it is not required to meet the requirements of paragraphs (a)(1)-(3) of this section unless the Secretary determines that the alternative approach is not adequate for the school. The alternative approach must—</p> <p>(i) Ensure that each borrower subject to initial counseling under paragraph (a)(1) of this section is provided written counseling materials that contain the information described in paragraph (a)(3) of this section;</p> <p>(ii) Be designed to target those students who are most likely to default on their repayment obligations and provide them more intensive counseling and support services; and</p>
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| <p>(iii) Include performance measures that demonstrate the effectiveness of the school's alternative approach. These performance measures must include objective outcomes, such as levels of borrowing, default rates, and withdrawal rates.</p> <p>(b) <i>Exit counseling.</i></p> <p>(1) A school shall conduct in-person exit counseling with each Direct Subsidized or Direct Unsubsidized Loan borrower shortly before the borrower ceases at least half-time study at the school, except that—</p> <p>(i) In the case of a correspondence program, the school shall provide the borrower with written counseling materials by mail within 30 days after the borrower completes the program; and</p> <p>(ii) If the borrower withdraws from school without the school's prior knowledge or fails to attend an exit counseling session as scheduled, the school shall mail written counseling materials to the borrower at the borrower's last known address within 30 days after the school learns that the borrower has withdrawn from school or failed to attend the scheduled session.</p> <p>(2) In conducting the exit counseling, the school shall—</p> <p>(i) Inform the student of the average anticipated monthly repayment amount based on the student's indebtedness or on the average</p> | <p>indebtedness of students who have obtained Direct Subsidized or Direct Unsubsidized Loans for attendance at that school or in the borrower's program of study.</p> <p>(ii) Review for the borrower available repayment options including the standard repayment, extended repayment, graduated repayment, and income contingent repayment plans, and loan consolidation;</p> <p>(iii) Provide options to the borrower concerning those debt-management strategies that the school determines would facilitate repayment by the borrower;</p> <p>(iv) Explain to the borrower how to contact the party servicing the student's Direct Loans;</p> <p>(v) Meet the requirements described in paragraphs (a)(3) (i) and (ii) of this section;</p> <p>(vi) Review with the borrower the conditions under which the borrower may defer repayment or obtain cancellation of a loan; and</p> <p>(vii) Require the borrower to provide corrections to the school's records concerning name, address, social security number, references, and driver's license number and State of issuance, as well as the name and address of the borrower's expected employer (if known). The school shall provide this information to the Secretary within 60 days.</p> |
|--|--|

- (3) Additional matters that the Secretary recommends that a school include in the exit counseling session or materials are set forth in Appendix D to 34 CFR Part 668.
- (4) The school shall maintain in the student borrower's file documentation substantiating the school's compliance with paragraphs (a) and (b) of this section as to that borrower.

**(Authority: 20 U.S.C. 1087a et seq.)**

**Note:** (b)(2)(i) revised November 28, 1997, effective July 1, 1998.

**Sec. 685.305—Determining the date of a student's withdrawal.**

- (a) Except as provided in paragraph (b) of this section, a school shall follow the procedures in 34 CFR 668.22(j) for determining the student's date of withdrawal.
- (b) For a student who does not return for the next scheduled term following a summer break, which includes any summer term(s) in which classes are offered but students are not generally required to attend, a school shall follow the procedures in 34 CFR 668.22(j) for determining the student's date of withdrawal except that the school must determine the student's date of withdrawal no later than 30 days after the start of the next scheduled term.
- (c) The school shall use the date determined under paragraph (a) or (b) of this section for the purpose of reporting to the Secretary the student's date of withdrawal and for determining when a refund must be paid under Sec. 685.306.

**(Authority: 20 U.S.C. 1087 et seq.)**

**Note:** Section revised June 12, 1996, effective July 12, 1996.

**Sec. 685.306—Payment of a refund to the Secretary.**

- (a) *General.* By applying for a Direct Loan, a borrower authorizes the school to pay directly to the Secretary that portion of a refund from the school that is allocable to the loan. A school—
  - (1) Shall pay that portion of the student's refund that is allocable to a Direct Loan to the Secretary; and
  - (2) Shall provide simultaneous written notice to the borrower if the school pays a refund to the Secretary on behalf of that student.
- (b) *Determination, allocation, and payment of a refund.* In determining the portion of a student's refund that is allocable to a Direct Loan, the school shall follow the procedures established in 34 CFR 668.22 for allocating and paying a refund that is due.

**(Authority: 20 U.S.C. 1087a et seq.)**

**Sec. 685.307—Withdrawal procedure for schools participating in the Direct Loan Program.**

- (a) A school participating in the Direct Loan Program may withdraw from the program by providing written notice to the Secretary.
- (b) A participating school that intends to withdraw from the Direct Loan Program

shall give at least 60 days notice to the Secretary.

- (c) Unless the Secretary approves an earlier date, the withdrawal is effective on the later of—
- (1) 60 days after the school notifies the Secretary; or
  - (2) The date designated by the school.

(Authority: 20 U.S.C. 1087a et seq.)

### **Sec. 685.308—Remedial actions.**

- (a) *General.* The Secretary may require the repayment of funds and the purchase of loans by the school if the Secretary determines that the unenforceability of a loan or loans, or the disbursement of loan amounts for which the borrower was ineligible, resulted in whole or in part from—
- (1) The school's violation of a Federal statute or regulation; or
  - (2) The school's negligent or willful false certification.
- (b) In requiring a school to repay funds to the Secretary or to purchase loans from the Secretary in connection with an audit or program review, the Secretary follows the procedures described in 34 CFR part 668, subpart H.
- (c) The Secretary may impose a fine or take an emergency action against a school or limit, suspend, or terminate a school's participation in the Direct Loan Program in accordance with 34 CFR part 668, subpart G.

(Authority: 20 U.S.C. 1087a et seq.)

### **Sec. 685.309—Administrative and fiscal control and fund accounting requirements for schools participating in the Direct Loan Program.**

- (a) *General.* A participating school shall—
- (1) Establish and maintain proper administrative and fiscal procedures and all necessary records as set forth in this part and in 34 CFR part 668; and
  - (2) Submit all reports required by this part and 34 CFR part 668 to the Secretary.
- (b) *Student status confirmation reports.* A school shall—
- (1) Upon receipt of a student status confirmation report from the Secretary, complete and return that report to the Secretary within 30 days of receipt; and
  - (2) Unless it expects to submit its next student status confirmation report to the Secretary within the next 60 days, notify the Secretary within 30 days if it discovers that a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan has been made to or on behalf of a student who—
    - (i) Enrolled at that school but has ceased to be enrolled on at least a half-time basis;
    - (ii) Has been accepted for enrollment at that school but failed to enroll on at least a half-time basis for the period for which the loan was intended; or
    - (iii) Has changed his or her permanent address.

- (3) The Secretary provides student status confirmation reports to a school at least semi-annually.
- (4) The Secretary may provide the student status confirmation report in either paper or electronic format.
- (c) *Record retention requirements.* An institution shall follow the record retention and examination requirements in this part and in 34 CFR 668.24.
- (d) *Accounting requirements.* A school shall follow accounting requirements in 34 CFR 668.24(b).
- (e) *Direct Loan Program bank account.* Schools shall follow the procedures for maintaining funds established in 34 CFR 668.163.
- (f) *Division of functions.* Schools shall follow the procedures for division of functions in 34 CFR 668.16(c).
- (g) *Limit on use of funds.* Except for funds paid to a school under section 452(b)(1) of the Act, funds received by a school under this part may be used only to make Direct Loans to eligible borrowers and may not be used or hypothecated for any other purpose.

**(Authority: 20 U.S.C. 1087a et seq.)**

(Approved by the Office of Management and Budget under control number 1840-0672)

**Note:** OMB control number added June 28, 1995, effective July 1, 1995. (a)(1), (c), and (d) revised; (e), (f), and (g) removed; (h), (i), and (j) redesignated as (e), (f), and (g), respectively November 27, 1996, effective July 1, 1997.

(e) amended November 29, 1996, effective July 1, 1997.

### ***Subpart D: School Participation and Loan Origination in the Direct Loan Program***

#### **Sec. 685.400—School participation requirements for academic years 1996-1997 and beyond.**

- (a) (1) In order to qualify for initial participation in the Direct Loan Program, a school must meet the eligibility requirements in section 435(a) of the Act, including the requirement that it have a cohort default rate of less than 25 percent for at least one of the three most recent fiscal years for which data are available unless the school is exempt from this requirement under section 435(a)(2)(C) of the Act.
- (2) In order to continue to participate in the Direct Loan Program, a school must continue to meet the requirements of paragraph (a)(1) of this section for years for which cohort default rate data represent the years prior to the school's participation in the Direct Loan Program.
- (b) In order to qualify for initial participation, the school must not be subject to an emergency action or a proposed or final limitation, suspension, or termination action under sections 428(b)(1)(T), 432(h), or 487(c) of the Act.
- (c) If schools apply as a consortium, each school in the consortium must meet the requirements in paragraphs (a) and (b) of this section.

(Authority: 20 U.S.C. 1087a et seq.)

**Sec. 685.401—Selection criteria and process for academic years 1996-1997 and beyond.**

- (a) The Secretary selects schools to participate in the Direct Loan Program for an academic year beginning in 1996-1997 from among those that apply to participate.
- (b) In evaluating an application from an eligible school, the Secretary—
  - (1) To the extent possible, selects schools that are reasonably representative of the schools that are participating in the FFEL Program in terms of anticipated loan volume, length of academic program, control of the school, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and
  - (2) In order to ensure an expeditious but orderly transition from the FFEL Program to the Direct Loan Program, selects schools that the Secretary believes will make the transition as smooth as possible.

(Authority: 20 U.S.C. 1087a et seq.)

(Approved by the Office of Management and Budget under control number 1840-0672)

**Note:** OMB control number added June 28, 1995, effective July 1, 1995.

**Sec. 685.402—Criteria for schools to originate loans for academic years 1996-1997 and beyond.**

- (a) *Initial determination of origination status.*
  - (1) *Standard origination.* Any school eligible to participate in the Direct Loan Program under Sec. 685.400 is eligible to participate under standard origination.
  - (2) *School Origination.* To be eligible to originate loans, a school must meet the following criteria:
    - (i) Have participated in the Federal Perkins Loan Program, the Federal Pell Grant Program, or, for a graduate and professional school, a similar program for the three most recent years preceding the date of application to participate in the Direct Loan Program.
    - (ii) If participating in the Federal Pell Grant Program, not be on the reimbursement system of payment.
    - (iii) In the opinion of the Secretary, have had no severe performance deficiencies for any of the programs under title IV of the Act, including deficiencies demonstrated by the most recent audit or program review.
    - (iv) Be financially responsible in accordance with the standards of 34 CFR 668.15.
    - (v) Be current on program and financial reports and audits required under title IV of the Act

for the 12-month period immediately preceding the date of application to participate in the Direct Loan Program.

- (vi) Be current on Federal cash transaction reports required under title IV of the Act for the 12-month period immediately preceding the date of application to participate in the Direct Loan Program and have no final determination of cash on hand that exceeds immediate title IV program needs.
- (vii) Have no material findings in any of the annual financial audits submitted for the three most recent years preceding the date of application to participate in the Direct Loan Program.
- (viii) Provide an assurance that the school has no delinquent outstanding debts to the Federal Government, unless—
  - (A) Those debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government; or
  - (B) The Secretary determines that the existence or amount of the debts has not been finally determined by the cognizant Federal agency.
- (3) A school that meets the criteria to originate loans may participate under school origination option 1 or 2 or under standard origination.

(b) *Change in origination status.*

- (1) After the initial determination of a school’s origination status, the Secretary may allow a school that does not qualify to originate loans under either origination option 1 or origination option 2 to do so if the Secretary determines that the school is fully capable of originating loans under one of those options.
- (2) (i) At any time after the initial determination of a school’s origination status, a school participating under origination option 2 may request to change to origination option 1 or standard origination, and a school participating under origination option 1 may request to change to standard origination.
  - (ii) The change in origination status becomes effective when the school receives notice of the Secretary’s approval, unless the Secretary specifies a later date.
- (3) (i) A school participating under origination option 1 may apply to participate under option 2, and a school participating in standard origination may apply to participate under either origination option 1 or 2 after one full year of participation in its initial origination status.
  - (ii) Applications to participate under another origination option are considered on an annual basis.
  - (iii) An application to participate under another origination option is evaluated on the basis of

criteria and performance standards established by the Secretary, including but not limited to—

- (A) Eligibility under paragraph (a)(2) of this section;
- (B) Timely submission of accurate origination and disbursement records;
- (C) Successful completion of reconciliation on a monthly basis; and
- (D) Timely submission of completed and signed promissory notes, if applicable.

(iv) The change in origination status becomes effective when the school receives notice of the Secretary's approval, unless the Secretary specifies a later date.

(c) *Secretarial determination of change in origination status.*

- (1) At any time after a school has been approved to originate loans, the Secretary may require a school participating under origination option 2 to convert to option 1 or to standard origination and may require a school participating under origination option 1 to convert to standard origination.
- (2) The Secretary may require a school to change origination status if the Secretary determines that such a change is necessary to ensure program integrity or if the school fails to meet the criteria and performance standards

established by the Secretary, including but not limited to—

- (i) For an origination option 1 school, eligibility under paragraph (a)(2) of this section, the timely submission of completed and signed promissory notes and accurate origination and disbursement records, and the successful completion of reconciliation on a monthly basis; and
- (ii) For an origination option 2 school, the criteria and performance standards required of origination option 1 schools and accurate and timely drawdown requests.

(3) The change in origination status becomes effective when the school receives notice of the Secretary's approval, unless the Secretary specifies a later date.

(d) *Origination by consortia.* A consortium of schools may participate under origination options 1 or 2 only if all members of the consortium are eligible to participate under paragraph (a)(2) of this section. All provisions of this section that apply to an individual school apply to a consortium.

(e) School determination of change of Servicer.

- (1) The Secretary assigns one or more Servicers to work with a school to perform certain functions relating to the origination and servicing of Direct Loans.

- (2) A school may request the Secretary to designate a different Servicer. Documentation of the unsatisfactory performance of the school's current Servicer must accompany the request. The Servicer requested must be one of those approved by the Secretary for participation in the Direct Loan Program.
- (3) The Secretary grants the request if the Secretary determines that—
  - (i) The claim of unsatisfactory performance is accurate and substantial; and
  - (ii) The Servicer requested by the school can accommodate such a change.
- (4) If the Secretary denies the school's request based on a determination under paragraph (e)(3)(ii) of this section, the school may request another Servicer.
- (5) The change in Servicer is effective when the school receives notice of the Secretary's approval, unless the Secretary specifies a later date.

(Authority: 20 U.S.C. 1087a et seq.)

### Appendix A: Income Contingent Repayment

**Note:** Appendix amended July 1, 1997, effective July 1, 1997.

#### Examples of the Calculation of Monthly Repayment Amounts

- ◆ *Example 1.* A single borrower with \$12,500 of Direct Loans, 8.25 percent interest rate, and an adjusted gross income (AGI) of \$22,791.

*Step 1:* Determine annual payments based on what the borrower would pay over 12 years using standard amortization. To do this, multiply the principal balance by the constant multiplier for 8.25 percent interest (0.1315452). The constant multiplier is a factor used to calculate amortized payments at a given interest rate over a fixed period of time. (See the constant multiplier chart below to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, use the next highest for estimation purposes.)

▶  $0.1315452 \times 12,500 = 1,644.315$

*Step 2:* Multiply the result by the income percentage factor shown in the income percentage factor table that corresponds to the borrower's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

▶  $80.33\% (0.8033) \times 1,644.315 = 1,320.8782$

*Step 3:* Determine 20 percent of discretionary income. For a single borrower, subtract the poverty level for a family of one, as published in the Federal Register on March 10, 1997 (62 FR 10856), from the borrower's income and multiply the result by 20%:

▶  $\$22,791 - \$7,890 = \$14,901$

▶  $\$14,901 \times 0.20 = \$2,980.20$

*Step 4:* Compare the amount from step 2 with the amount from step 3. The lower of the two will be the borrower's annual payment amount. This borrower will be paying the amount calculated under step 2. To determine the monthly repayment amount, divide the annual amount by 12.

$$\blacktriangleright 1,320.8782 / 12 = \$110.07$$

- ◆ *Example 2.* Married borrowers repaying jointly under the income contingent repayment plan with a combined AGI of \$28,627. The husband has a Direct Loan balance of \$5,000, and the wife has a Direct Loan balance of \$15,000. The interest rate is 8.25 percent. This couple has no children.

*Step 1:* Add the Direct Loan balances of the husband and wife together to determine the aggregate loan balance.

$$\blacktriangleright \$5,000 + \$15,000 = \$20,000$$

*Step 2:* Determine the annual payments based on what the couple would pay over 12 years using standard amortization. To do this, multiply the aggregate principal balance by the constant multiplier for 8.25 percent interest (0.1315452). (See the constant multiplier chart to determine the constant multiplier you should use for the interest rate on the loan. If the exact interest rate is not listed, choose the next highest rate for estimation purposes.)

$$\blacktriangleright 0.1315452 \times 20,000 = 2,630.904$$

*Step 3:* Multiply the result by the income percentage factor shown in the income

percentage factor table that corresponds to the couple's income (if the income is not listed, you can calculate the applicable income percentage factor by following the instructions under the interpolation heading below):

$$\blacktriangleright 87.61\% (0.8761) \times 2,630.904 = 2,304.9350$$

*Step 4:* Determine 20 percent of the couple's discretionary income. To do this, subtract the HHS poverty level for a family of 2, as published in the Federal Register on March 10, 1997 (62 FR 10856), from the couple's income and multiply the result by 20 percent:

$$\blacktriangleright \$28,627 - \$10,610 = \$18,017$$

$$\blacktriangleright \$18,017 \times 0.20 = \$3,603.40$$

*Step 5:* Compare the amount from step 3 with the amount from step 4. The lower of the two will be the annual payment amount. The married borrowers will be paying the amount calculated under step 3. To determine the monthly repayment amount, divide the annual amount by 12.

$$\blacktriangleright 2,304.9350 / 12 = \$192.08$$

- ◆ *Interpolation:* If your income does not appear on the income percentage factor table, you will have to calculate the income percentage factor through interpolation. For example, assume you are single and your income is \$26,000.

- To interpolate, you must first find the interval between the closest income listed that is less than

\$26,000 and the closest income listed that is greater than \$26,000 (for this discussion, we'll call the result "the income interval"):

▶  $\$28,627 - \$22,791 = \$5,836$

- *Next*, find the interval between the two income percentage factors that are given for these incomes (for this discussion, we'll call the result, the "income percentage factor interval"):

▶  $88.77 - 80.33 = 8.44$

- **Subtract** the income shown on the chart that is immediately less than \$26,000 from \$26,000:

▶  $\$26,000 - \$22,791 = \$3,209$

- **Divide** the result by the number representing the income interval:

▶  $\$3,209 / \$5,836 = 0.5499$

- **Multiply** the result by the income percentage factor interval:

▶  $0.5499 \times 8.44 = 4.64$

- **Add** the result to the lower income percentage factor used to calculate the income percentage factor interval for \$26,000 in income:

▶  $4.64 + 80.33 = 84.97\%$

The result is the income percentage factor that will be used to calculate the monthly repayment amount under the income contingent repayment plan.

**Income Percentage Factors  
(Based on Annual Income)**

<b>Single</b>		<b>Married and Head of Household</b>	
<b>Income</b>	<b>% Factor</b>	<b>Income</b>	<b>% Factor</b>
\$7,851	55.00%	\$7,851	50.52%
\$10,803	57.79%	\$12,389	56.68%
\$13,901	60.57%	\$14,765	59.56%
\$17,070	66.23%	\$19,302	67.79%
\$20,096	71.89%	\$23,912	75.22%
\$23,912	80.33%	\$30,035	87.61%
\$30,035	88.77%	\$37,668	100.00%
\$37,669	100.00%	\$45,304	100.00%
\$45,304	100.00%	\$56,757	109.40%
\$54,450	111.80%	\$75,842	125.00%
\$69,721	123.50%	\$102,563	140.60%
\$98,747	141.20%	\$143,439	150.00%
\$113,223	150.00%	\$234,390	200.00%
\$201,670	200.00%	-----	-----

**CONSTANT MULTIPLIER CHART FOR 12-YEAR AMORTIZATION**

<b>Interest Rate</b>	7.00%	7.25%	7.43%	7.50%	7.75%	8.00%	8.25%	8.38%	8.50%	8.75%	9.00%
<b>Annual Constant Multiplier</b>	0.1234056	0.1250112	0.126174	0.1266276	0.1282548	0.129894	0.1315452	0.132408	0.1332072	0.13488	0.1365636

**PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM**

Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels (Family Size = 3)

Income	Initial Debt																								
	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$55,000	\$60,000	\$65,000	\$70,000	\$75,000	\$80,000	\$85,000	\$90,000	\$100,000	
\$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
9,000	15	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19	19
10,000	16	32	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35	35
12,500	16	33	49	66	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77	77
15,000	17	35	52	70	87	105	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119	119
17,500	19	38	56	75	94	113	132	150	160	160	160	160	160	160	160	160	160	160	160	160	160	160	160	160	160
20,000	20	40	61	81	101	121	142	162	182	202	202	202	202	202	202	202	202	202	202	202	202	202	202	202	202
22,500	22	44	65	87	109	131	153	175	196	218	244	244	244	244	244	244	244	244	244	244	244	244	244	244	244
25,000	23	46	69	92	114	137	160	183	206	229	275	285	285	285	285	285	285	285	285	285	285	285	285	285	285
30,000	25	50	75	100	125	149	174	199	224	249	299	349	369	369	369	369	369	369	369	369	369	369	369	369	369
35,000	27	54	81	108	135	162	189	216	243	270	324	378	432	452	452	452	452	452	452	452	452	452	452	452	452
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	493	535	535	535	535	535	535	535	535	535	535	535
45,000	28	56	84	112	140	168	197	225	253	281	337	393	449	505	562	618	619	619	619	619	619	619	619	619	619
50,000	30	60	90	120	150	180	210	239	269	299	359	419	479	539	599	659	702	702	702	702	702	702	702	702	702
55,000	31	63	94	125	157	188	219	251	282	313	376	439	501	564	626	689	752	785	785	785	785	785	785	785	785
60,000	32	65	97	130	162	195	227	259	292	324	389	454	519	584	648	713	778	843	869	869	869	869	869	869	869
65,000	34	67	101	134	168	201	235	268	302	335	402	469	536	603	671	738	805	872	939	952	952	952	952	952	952
70,000	34	69	103	138	172	207	241	276	310	345	414	483	551	620	689	758	827	896	965	1,034	1,035	1,035	1,035	1,035	1,035
75,000	35	71	106	141	177	212	247	283	318	353	424	495	566	636	707	778	848	919	990	1,060	1,119	1,119	1,119	1,119	1,119
80,000	36	72	109	145	181	217	254	290	326	362	435	507	580	652	724	797	869	942	1,014	1,087	1,159	1,202	1,202	1,202	1,202
85,000	37	74	111	148	185	223	260	297	334	371	445	519	594	668	742	816	890	965	1,039	1,113	1,187	1,261	1,285	1,285	1,285
90,000	38	76	114	152	190	228	266	304	342	380	456	532	608	684	759	835	911	987	1,063	1,139	1,215	1,291	1,367	1,369	1,369
95,000	39	78	117	155	194	233	272	311	350	389	466	544	622	699	777	855	932	1,010	1,088	1,166	1,243	1,321	1,399	1,452	1,452
100,000	40	79	119	159	199	238	278	318	358	397	477	556	636	715	794	874	953	1,033	1,112	1,192	1,271	1,351	1,430	1,535	1,535

Sample repayment amounts are based on an interest rate of 8.25%.

**PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM**

Income Contingent Repayment Plan  
 Sample First-Year Monthly Repayment Amounts for a Married or  
 Head-of-Household Borrower at Various Income and Debt Levels  
 (Family Size = 3)

Income	Initial Debt																							
	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$55,000	\$60,000	\$65,000	\$70,000	\$75,000	\$80,000	\$85,000	\$90,000	\$100,000
\$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15,000	17	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28	28
17,500	18	36	54	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70
20,000	19	39	58	77	97	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111	111
22,500	20	41	61	82	102	123	143	153	153	153	153	153	153	153	153	153	153	153	153	153	153	153	153	153
25,000	22	44	66	88	109	131	153	175	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195	195
30,000	25	49	74	99	123	148	173	197	222	247	278	278	278	278	278	278	278	278	278	278	278	278	278	278
35,000	27	54	81	108	135	162	189	216	243	270	324	361	361	361	361	361	361	361	361	361	361	361	361	361
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	445	445	445	445	445	445	445	445	445	445	445
45,000	28	56	84	111	139	167	195	223	251	278	334	390	445	501	528	528	528	528	528	528	528	528	528	528
50,000	29	58	87	116	145	174	203	232	261	290	348	406	464	522	580	611	611	611	611	611	611	611	611	611
55,000	30	60	91	121	151	181	211	242	272	302	362	423	483	543	604	664	695	695	695	695	695	695	695	695
60,000	31	63	94	125	157	188	220	251	282	314	376	439	502	565	627	690	753	778	778	778	778	778	778	778
65,000	33	65	98	130	163	195	228	260	293	325	391	456	521	586	651	716	781	846	861	861	861	861	861	861
70,000	34	67	101	135	169	202	236	270	303	337	405	472	540	607	674	742	809	877	944	945	945	945	945	945
75,000	35	69	104	139	174	208	243	278	312	347	417	486	555	625	694	764	833	903	972	1,028	1,028	1,028	1,028	1,028
80,000	36	71	107	142	178	213	249	284	320	356	427	498	569	640	711	782	853	924	995	1,067	1,111	1,111	1,111	1,111
85,000	36	73	109	146	182	218	255	291	328	364	437	509	582	655	728	801	873	946	1,019	1,092	1,164	1,195	1,195	1,195
90,000	37	74	112	149	186	223	261	296	335	372	447	521	596	670	745	819	894	968	1,042	1,117	1,191	1,266	1,278	1,278
95,000	38	76	114	152	190	228	266	305	343	381	457	533	609	685	761	838	914	990	1,066	1,142	1,218	1,294	1,361	1,361
100,000	39	77	116	155	193	232	271	309	348	387	464	542	619	696	774	851	928	1,006	1,083	1,160	1,238	1,315	1,392	1,445

Sample repayment amounts are based on an interest rate of 8.25%.

## Poverty Guidelines (referred to in Sec. 685.209(a)(3))

To use this chart, you must first determine your family size, which is the number of people whom you support.

- ◆ Include yourself and your spouse.
- ◆ Include your children if they get more than half their support from you.
- ◆ Include other people only if they meet all of the following criteria:
  - They live with you.
  - They now get more than half their support from you.
  - They will continue to get this support from you.

Support includes money, gifts, loans, housing, food, clothes, car, medical and dental care, payment of college costs, and so on.

Next, find the column that represents your place of residence. Read down to your family size. This is the poverty guideline for you.

<b>1999 HHS Poverty Guidelines</b>			
<b>Family Size</b>	<b>All states and the District of Columbia<sup>1</sup> (except Alaska, Hawaii)</b>	<b>Alaska<sup>2</sup></b>	<b>Hawaii<sup>3</sup></b>
1	\$8,240	\$10,320	\$9,490
2	\$11,060	\$13,840	\$12,730
3	\$13,880	\$17,360	\$15,970
4	\$16,700	\$20,880	\$19,210
5	\$19,520	\$24,400	\$22,450
6	\$22,340	\$27,920	\$25,690
7	\$25,160	\$31,440	\$28,930
8	\$27,980	\$34,960	\$32,170
<sup>1</sup> For families with more than eight members, add \$2,820 for each additional member. <sup>2</sup> For families with more than eight members, add \$3,520 for each additional member. <sup>3</sup> For families with more than eight members, add \$3,240 for each additional member.			

Information provided by the U.S. Department of Health and Human Services.